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# **The Saudi Majlis Ash-Shura: Domestic Functions and International Role, 1993-2003**

A Thesis Submitted for the Degree of Doctor of Philosophy

**By**

**Mohammed Abdullah Al-Muhanna**

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**University of Durham**

**School of Government and International Affairs**

**2005**



**21 JUN 2005**

## **ABSTRACT**

This thesis has presented the Majlis Ash-Shura in the Kingdom of Saudi Arabia as a case study of a newly emerging political institution, and has explored its Islamic roots and examined its role and functions within the Saudi political system.

Since the foundation of the first Majlis (Council) in the early 1920s, it has passed through several developmental stages, however re-establishment of this institution in 1992 is considered one of the most important features of political development in the modern history of Saudi Arabia.

Throughout this study primary research was undertaken into the functions of the Saudi Majlis and the role it played in the internal and external affairs of the country during its three terms from 1993 to 2003. The legislative and oversight functions of the Majlis, as well as its external role are identified, and the effectiveness of these are determined.

The Majlis has now become an important political institution, and there is great expectation that it will play a major role in the near future in the evolving political system of the Kingdom of Saudi Arabia. For this reason it is important that the functions of the Council and the role it plays are fully understood, especially as this Majlis, in its current form, has had a relatively short history, and the subject has hitherto received scant academic attention. It is hoped that this thesis, by drawing on data collected from questionnaire responses, interviews and the study of the Majlis' documents, will provide a unique and useful analysis regarding the work of the Majlis and the contribution it is currently making to the decision-making process and to enhancing the government's performance. In addition, suggestions are made as to several ways in which the Council could be more effective at the domestic and international level.

## **Dedication**

This work is dedicated to those who provided moral support for my graduate studies. To my parents, for whom, what so ever I may do, I could never provide what they really deserve. May God keep my father in the best state of health and faith, and may God have mercy on my mother, who I wish were still alive to share in this happy occasion with me.

I dedicate this work also to my beloved wife Hessa, who provided me with unlimited support by taking care of our family during my study, and who gave me the encouragement I needed to achieve my goal.

I would also like to dedicate this work to my brothers and sisters for their love and support during the years of my study.

Lastly, I dedicate this work to my dearest five children Hneen, Abdullah, Abdulaziz, Mashari and Abdulmlik who suffered as a result of my not spending sufficient time with them during the period of my research study.

I would like also to dedicate this work to all those who work hard for the progress of the Kingdom of Saudi Arabia.



## Acknowledgements

Praise and gratitude be to Allah the Most Compassionate and the Most Merciful for granting me the ability, health, and guidance, without which I would have found the demands of my study and the completion of it, impossible.

This work would not have been possible without the dedicated effort, kindness and support of many people. My sincerest gratitude and deepest appreciation go to my supervisor, Professor Anoush Ehteshami, for his constant support, guidance and invaluable instruction. His advice and comments have greatly improved the quality of this study. Above all, his friendly style of supervision made him exceptionally pleasant to work with. In addition, special thanks go to all the staff at the School of government and International Affairs at the University of Durham who helped me in many different ways.

Also, I offer my deep appreciation to the many people who provided help in Saudi Arabia. My particular thanks go to the current and former Chairmen of the Saudi Majlis Ash-Shura. I also acknowledge all the members of the Majlis during its three terms, who took the trouble to complete the questionnaires, and make suggestions which were much appreciated. I extend my deep appreciation to the senior officials of the Saudi Arabian government and to the academic staff of the Saudi universities and institutes who granted me interviews and assistance. I would also like to thank the Secretary General of the Majlis Ash-Shura, his assistants, and all the staff of the Majlis for their help and support for which I am most grateful. In addition, special thanks go to all my friends in Durham and Riyadh who provided help and information.

Most of all, I thank my family, both here in Durham and back in Saudi Arabia, who shared with me my hopes during my study abroad: to my oldest brother Ibrahim, my other brothers and my sisters for their support and encouragement; to my wife a source of constant love and support, who suffered and paid a price to enable me to complete my study, and to my mother in law, for her prayers and encouragement. Many thanks to them and to my children who were behind me throughout this process and with whom I am pleased to share the credit for this accomplishment.

## **DECLARATION**

I hereby declare that no portion of the work that appears in this study has been used in support of an application for another degree in qualification to this or any other university or institution of learning.

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## TABLE OF CONTENT

<b>ABSTRACT .....</b>	<b>II</b>
<b>DEDICATION.....</b>	<b>III</b>
<b>ACKNOWLEDGEMENTS.....</b>	<b>IV</b>
<b>DECLARATION.....</b>	<b>V</b>
<b>STATEMENT OF COPYRIGHT .....</b>	<b>VI</b>
<b>TABLE OF CONTENT.....</b>	<b>VII</b>
<b>LIST OF FIGURES .....</b>	<b>X</b>
<b>LIST OF TABLES .....</b>	<b>XI</b>
<b>GLOSSARY.....</b>	<b>XIV</b>
<b>CHAPTER ONE: INTRODUCTION .....</b>	<b>1</b>
1.1 INTRODUCTION .....	1
1.2 STATEMENT OF THE PROBLEM.....	3
1.3 OBJECTIVE OF THE STUDY.....	4
1.4 IMPORTANCE OF THE STUDY .....	5
1.5 RESEARCH QUESTIONS .....	6
1.6 PREVIOUS STUDIES ON THE SAUDI MAJLIS ASH-SHURA .....	8
1.7 EXPERIMENTS OF ASH-SHURA COUNCILS IN THE GULF COUNTRIES .....	18
1.8 RESEARCH METHODOLOGY .....	26
1.8.1 Methodology and research instruments .....	26
1.8.1.1 <i>The questionnaire</i> .....	27
1.8.1.2 <i>Document survey</i> .....	31
1.8.1.3 <i>The interviews</i> .....	32
1.9 ORGANIZATION OF THE RESEARCH.....	36
1.10 CONCLUSION .....	38
<b>CHAPTER TWO: THE PRINCIPLE OF ASH-SHURA IN ISLAM.....</b>	<b>39</b>
2.1 INTRODUCTION .....	39
2.2 THE CONCEPT OF ASH-SHURA .....	39
2.3 IMPLEMENTATION OF ASH-SHURA.....	41
2.4 THE SCOPE OF ASH-SHURA .....	47
2.5 THE OBLIGATION OF THE OUTCOMES OF ASH-SHURA .....	49
2.6 WHO ARE ASH-SHURA PEOPLE? .....	55
2.7 CONCLUSION .....	57
<b>CHAPTER THREE: THE SAUDI POLITICAL SYSTEM TODAY.....</b>	<b>59</b>
3.1 INTRODUCTION .....	59
3.2 THE EXECUTIVE AUTHORITY IN SAUDI ARABIA .....	60
3.2.1 The authority of the King .....	60
3.2.2 The authority of the Council of Ministers.....	62
3.2.3 Local government.....	63
3.3 THE LEGISLATIVE AUTHORITY .....	64
3.3.1 The Majlis Ash-Shura .....	66
3.3.2 The King's legislative function.....	67
3.3.3 The Council of Ministers' legislative function .....	71
3.4 THE <i>ULAMA</i> 'S LEGISLATIVE ROLE .....	73
3.5 CONCLUSION .....	76



<b>CHAPTER FOUR: THE HISTORICAL DEVELOPMENT OF THE MAJLIS ASH-SHURA IN THE KINGDOM OF SAUDI ARABIA .....</b>	<b>78</b>
4.1 INTRODUCTION .....	78
4.2 ASH-SHURA IN THE FIRST AND SECOND SAUDI STATES .....	78
4.3 THE APPLICATIONS OF ASH-SHURA IN THE THIRD SAUDI STATE.....	80
4.3.1 The general Majlis Ash-Shura and local councils.....	82
4.3.2 The Shura Council of 1926 .....	83
4.3.3 The Majlis Ash-Shura of 1928 .....	85
4.4 THE MODERN MAJLIS ASH-SHURA .....	91
4.4.1 Comparison between the old and the modern Majlis.....	92
4.4.2 The establishment of the modern Majlis Ash-Shura.....	94
4.4.3 The functions and responsibilities of the Majlis .....	96
4.4.4 Structure of the council .....	97
4.4.5 The background of the Majlis members .....	99
4.4.6 The rights and duties of the Council members.....	104
4.4.7 The number of Council members.....	106
4.4.8 The Council's sessions.....	107
4.4.9 The voting and issuance of resolutions .....	109
4.4.10 The productivity of the Majlis.....	111
4.4.11 The Steering Committee .....	114
4.4.12 The specialized committees .....	115
4.4.13 The duration of the Council's term .....	120
4.4.14 The General Secretariat.....	120
4.4.15 The Council's head office .....	120
4.4.16 The Council's relationship with the wider society.....	121
4.5 CONCLUSION .....	123
<b>CHAPTER FIVE: THE LEGISLATIVE FUNCTION OF THE MAJLIS AT DOMESTIC LEVEL .....</b>	<b>125</b>
INTRODUCTION.....	125
<b>5.1 THE LEGISLATIVE FUNCTION .....</b>	<b>125</b>
5.1.1 Proposing new draft laws and amending existing ones .....	125
5.1.2 Reviewing of draft laws referred by the government .....	132
5.1.3 Interpretation of Laws .....	138
5.1.4 Approving draft laws and by-laws .....	139
5.1.5 Evaluating the effectiveness of the legislative function.....	143
5.1.6 Obstacles to legislative effectiveness.....	152
5.1.6.1 <i>The Sharing of the Council of Ministers in the Legislative Authority.</i>	152
5.1.6.2 <i>Assigning the duty of studying by-laws to the Majlis Ash-Shura .....</i>	155
5.1.6.3 <i>Issuance of laws without referring them to the Majlis Ash-Shura .....</i>	156
5.1.6.4 <i>Shortage in the number of Majlis Members Specializing in the Sharia.</i>	158
5.1.7 Conclusion .....	161
<b>CHAPTER SIX: THE OVERSIGHT FUNCTION OF THE MAJLIS AT DOMESTIC LEVEL .....</b>	<b>165</b>
6.1 Oversight authorities .....	165
6.1.1 Discussion of the general plan of the government.....	165
6.1.2 Discussing the annual performance reports of government ministries ..	167
6.1.3 The right to summon ministers and government officials .....	170
6.1.4 The right to request information and documents .....	172
6.2 Evaluation of the effectiveness of the oversight function.....	174



6.3	Reasons for the ineffectiveness of oversight function .....	178
6.3.1	Ineffectiveness of the oversight tools.....	178
6.3.2	Lack of financial oversight power.....	181
6.3.3	Inability to debate general issues .....	183
6.3.4	Inability to exercise a direct oversight .....	184
5.3.4	Conclusion .....	186
<b>CHAPTER SEVEN: THE EXTERNAL ROLE OF THE MAJLIS ASH-SHURA</b>		
7.1	INTRODUCTION .....	188
7.2	PARTICIPATION OF THE MAJLIS IN EXTERNAL AFFAIRS .....	190
7.2.1	Studying international agreements and treaties.....	193
7.2.2	Listening to the government's statements.....	196
7.2.3	Releasing of political statements.....	199
7.2.4	Establishment of parliamentary friendship groups .....	201
7.2.5	Conducting external activities.....	202
7.2.5.1	<i>Conducting official visits</i> .....	204
7.2.5.2	<i>Receiving parliamentary and official delegations</i> .....	205
7.2.5.3	<i>Participation in parliamentary conventions</i> .....	206
7.3	EVALUATION OF EFFECTIVENESS OF THE EXTERNAL ROLE.....	208
7.4	REASONS BEHIND THE INEFFECTIVENESS .....	214
7.4.1	The authority vested in the Council of Ministers.....	214
7.4.2	Lack of powers to oversee foreign affairs.....	215
7.4.3	Lack of power to influence on the external affairs .....	216
7.5	CONCLUSION .....	217
<b>CHAPTER EIGHT: IMPROVING THE FUNCTIONS AND ROLE OF THE MAJLIS</b>		
8.1	INTRODUCTION .....	219
8.2	THE NEED FOR IMPROVING THE FUNCTIONS AND ROLE OF THE MAJLIS .....	219
8.3	THE FORMS OF IMPROVEMENT .....	220
8.3.1	Improving the legislative function .....	220
8.3.2	Improving the oversight function.....	223
8.3.3	Improving the external role.....	233
8.4	CONCLUSION .....	238
<b>CHAPTER NINE: CONCLUSIONS AND RECOMMENDATIONS</b>		
9.1	SUMMARY AND FINDINGS .....	240
9.2	RECOMMENDATIONS.....	269
9.2.1	Recommendations related to the Majlis' relationship with the Council of Ministers .....	269
9.2.2	Recommendations related to domestic functions .....	270
9.2.3	Recommendations related to the international role of the Majlis .....	273
9.2.4	General Recommendations .....	274
9.3	FURTHER RESEARCH .....	277
<b>BIBLIOGRAPHY .....</b>		<b>278</b>
<b>APPENDICES .....</b>		<b>287</b>
APPENDIX ONE: THE QUESTIONNAIRE AND RESPONSES .....		288
APPENDIX TWO: MUNICIPAL COUNCIL ELECTIONS BY-LAW .....		304

## **LIST OF FIGURES**

<b>Figure 4. 1</b>	<b>Distribution Of Council Members By Age .....</b>	<b>100</b>
<b>Figure 4.2</b>	<b>Distribution Of Council Members By Level Of Education.....</b>	<b>101</b>
<b>Figure 4. 3</b>	<b>Distribution Of Council Members According To Duration Of Previous Experience.....</b>	<b>102</b>
<b>Figure 4.4</b>	<b>Distribution Of Council Members By Duration Of Previous Occupation .....</b>	<b>103</b>
<b>Figure 5.1</b>	<b>The Stages Of Making Legislation In The Majlis From The Beginning Through To The Issuance Of Law By The King.....</b>	<b>137</b>
<b>Figure 5.2</b>	<b>Distribution Of Council Members According To Their Evaluation Of The Effectiveness Of The Legislative Function .....</b>	<b>144</b>



## LIST OF TABLES

<b>Table 4.1</b>	<b>Distribution Of Council Members By Field Of Specialization .....</b>	<b>101</b>
<b>Table 4.2</b>	<b>The Majlis Ash-Shura General Activities (1993–2003): Input Of Referred Issues And Resolutions Output.....</b>	<b>112</b>
<b>Table 4.3</b>	<b>The Average Length Of Time Taken By The Majlis To Produce Resolutions .....</b>	<b>113</b>
<b>Table 4.4</b>	<b>The Activities Of Specialized Committees 1993–2003 .....</b>	<b>119</b>
<b>Table 5.1</b>	<b>The Legislative Activity Of The Majlis Ash-Shura And The Government In Proposing Laws, 1993-2003 .....</b>	<b>127</b>
<b>Table 5.2</b>	<b>Article 23 Needs To Be Amended In Order To Give The Majlis The Authority To Study And Issue Its Suggestions Directly .....</b>	<b>130</b>
<b>Table 5.3</b>	<b>“The Legislative Stages Adopted By The Majlis Are Suitable”.....</b>	<b>136</b>
<b>Table 5.4</b>	<b>The Majlis’ Legislative Resolutions, 1993-2003 .....</b>	<b>143</b>
<b>Table 5.5</b>	<b>The Legislative Function Of The Majlis Ash-Shura Is Effective.....</b>	<b>144</b>
<b>Table 5.6</b>	<b>Activity Of The Majlis Ash-Shura In The Legislative Field .....</b>	<b>145</b>
<b>Table 5.7</b>	<b>A Study Of Some Resolutions Taken By The Majlis On Laws Proposed By Government.....</b>	<b>151</b>
<b>Table 5.8</b>	<b>The Sharing Of The Legislative Authority Between The Council Of Ministers And The Majlis Ash-Shura Reduces Effectiveness Of The Latter .....</b>	<b>153</b>
<b>Table 5.9</b>	<b>The Issuance Of Some Laws By The Council Of Minister Without Referring Them To The Majlis Limits The Legislative Function Of The Latter .....</b>	<b>157</b>
<b>Table 5.10</b>	<b>The Majlis Needs To Increase The Number Of Members Specializing In The Islamic <i>Sharia</i> And Law In Order To Promote Its Legislative Effectiveness And Qualification.....</b>	<b>159</b>
<b>Table 6.1</b>	<b>The Oversight Activities Of The Majlis In Discussing The General Plan For Development And Annual Performance Reports Forwarded By Ministers (1993-2003).....</b>	<b>166</b>

<b>Table 6.2</b>	<b>Activities Of The Majlis In Summoning Ministers And Government Officials 1993-2003 .....</b>	<b>171</b>
<b>Table 6.3</b>	<b>The Oversight Function Of The Majlis Ash-Shura Is Effective .....</b>	<b>174</b>
<b>Table 6.4</b>	<b>The Majlis' Oversight Resolutions, 1993-2003 .....</b>	<b>176</b>
<b>Table 6.5</b>	<b>The Oversight Role Of The Majlis Contributed To The Improvement Of The Performance Of The Governmental Ministries And Departments.....</b>	<b>177</b>
<b>Table 6.6</b>	<b>The Oversight Tools Adopted By The Majlis Are Effective.....</b>	<b>179</b>
<b>Table 6.7</b>	<b>The Majlis Ash-Shura Is In Need Of Enhancing Its Financial Oversight Power .....</b>	<b>182</b>
<b>Table 6.8</b>	<b>The Majlis Ash-Shura Needs To Practice Its Oversight Role Directly, And Not Through The Council Of Ministers .....</b>	<b>185</b>
<b>Table 7.1</b>	<b>Activities Of The Majlis Ash-Shura In Studying International Treaties And Agreements 1993-2003.....</b>	<b>196</b>
<b>Table 7.2</b>	<b>The Government Is Willing To Keep The Majlis Ash-Shura Updated With Developments In Saudi External Affairs.....</b>	<b>197</b>
<b>Table 7.3</b>	<b>The Activities Of The Majlis Ash-Shura In External Affairs 1993-203</b>	<b>203</b>
<b>Table 7.5</b>	<b>A Study Of Resolutions Taken By The Majlis On Agreements And Treaties Proposed By The Government 1993-2003.....</b>	<b>211</b>
<b>Table 7.6</b>	<b>The Authorities Vested In The Council Of Ministers Limits The Role Of The Majlis In The Process Of Formulating Both External And Domestic Policie.....</b>	<b>214</b>
<b>Table 7.7</b>	<b>The Majlis Ash-Shura Has The Power To Monitor The Implementation Of The Foreign Affairs Of The Kingdom .....</b>	<b>215</b>
<b>Table 7.8</b>	<b>The Majlis Ash-Shura Has The Power To Influence The External Affairs Of The Kingdom.....</b>	<b>217</b>
<b>Table 8.1</b>	<b>Distribution Of Members According To Their Evaluation Of The Need Of Improving The Functions And Role Of The Majlis .....</b>	<b>219</b>
<b>Table 8.2</b>	<b>The Legislative Function Should Be Exclusively Assigned To The Majlis, And It Should Be Granted The Power To Issue Final Legislations .....</b>	<b>221</b>



<b>Table 8.3</b>	<b>The Majlis Ash-Shura Should Be Supported By A Legal Commission In Order To Enhance Its Legislative Function .....</b>	<b>222</b>
<b>Table 8.4</b>	<b>The Mechanism For The Selection Of Majlis Members Should Be Enhanced.....</b>	<b>224</b>
<b>Table 8.5</b>	<b>The Mechanism For Selecting Members Should Be Developed To Combine Both Direct Appointment And Election .....</b>	<b>224</b>
<b>Table 8.6</b>	<b>The Mechanism For Selecting Members Should Be Developed To Involve Full Elections.....</b>	<b>225</b>
<b>Table 8.7</b>	<b>The Majlis Ash-Shura Is In Need Of New Oversight Tools That Are Similar To Those Of Other Councils.....</b>	<b>227</b>
<b>Table 8.8</b>	<b>The Majlis Ash-Shura Should Be Granted The Power To Review And Approve The General Budget Of The State .....</b>	<b>228</b>
<b>Table 8.9</b>	<b>The Majlis Should Be Granted The Authority To Question Ministers In Cases Of Abuses And Breaches In Their Ministries.....</b>	<b>229</b>
<b>Table 8.10</b>	<b>The Majlis Ash-Shura Should Have The Right To Debate On General Issues That Have Not Been Referred To It.....</b>	<b>232</b>
<b>Table 8.11</b>	<b>The Majlis Ash-Shura Should Take Part In The Formulation Of The General Policy Of The Kingdom .....</b>	<b>233</b>
<b>Table 8.12</b>	<b>The Government Should Consult And Get The Approval Of The Majlis In Advance Of Concluding External (International) Agreements .....</b>	<b>235</b>
<b>Table 8.13</b>	<b>The Majlis Ash-Shura Should Be Consulted Before Concluding Any Foreign Agreements, Which Incur Financial Loans.....</b>	<b>236</b>
<b>Table 8.14</b>	<b>The Activities And Tools Used By The Majlis In Exercising Its External Role Should Be Enhanced.....</b>	<b>237</b>
<b>Table 9.1</b>	<b>The Majlis' Resolutions In Domestic And External Affairs .....</b>	<b>263</b>
<b>Table 9.2</b>	<b>Percentage Of The Council Of Ministers' Resolutions Based On the Output Of Majlis' Resolutions.....</b>	<b>264</b>

## Glossary

**Allah:** God.

**Ash-Shura or Shura:** an Arabic word that has several meanings, among which are “the process of mutual consultation” or “the process of seeking advice in a particular matter”.

**As-Salat:** prayers

**Bay`a:** oath

**Fatwa:** an Islamic legal interpretation or an opinion on Islamic doctrine by a Mufti.

**Figh:** Islamic jurisprudence

**Hijrah:** literally means to migrate. In the Islamic World it refers to the migration of the Prophet Mohammed from Makkah to Al-Madinah.

**Ijtihad:** (discretion) the personal judgement of a religious scholar.

**Istinbat’:** (deduction)

**Majlis:** an Arabic word referring to a sitting room, a council or an assembly.

**Mufti:** a religious jurist who is qualified to issue fatwa, or to interpret the Islamic law.

**Qura`n:** the Holy Book of Islam, which was revealed by Allah to the Prophet Mohammed through the Angel Gabriel.

**Sharia:** Islamic Law. It is derived from the Arabic word to legislate.

**Sheikh:** a tribal leader in the political sense, or religious scholar.

**Sunnah or Hadith:** a source of Islam based on the Prophet’s tradition.

**Ulama:** Moslem scholars.

**Ummah:** a community or state

**Zakat:** the poor-due



# Chapter One: Introduction

## 1.1 Introduction

Ash-Shura, which means consultation, is considered to be one of the most important principles that an Islamic state should be built upon. Owing to its importance, Allah stated this principle in the Holy *Qur'an* when he ordered His Prophet Mohammed (May Peace Be Upon Him) to consult his companions regarding the affairs of the Muslims:

And by the mercy of Allah, you dealt with them gently. And had you been severe and harsh-hearted, they would have broken away from about you; so pass over (their faults), and ask (Allah's) forgiveness for them; and consult them in the affairs. Then when you have taken a decision, put your trust in Allah, certainly, Allah loves those who put their trust (in Him).<sup>1</sup>

Despite the fact that this principle became a cornerstone in the era of the Prophet Mohammed, there was no Majlis or Council for Ash-Shura, as is known in today's modern world. In Islam, there are no specific methods or procedures for the adoption of Ash-Shura principle. This principle can be adhered to through consultation with small or large groups of either elected or selected people, or by a Majlis, a council or a legislative assembly. The door has been left open for Muslims to choose and implement the kind of mechanisms that suit their social conditions.<sup>2</sup>

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<sup>1</sup> The Holy *Qur'an*, Surat Al-Imran, verse 159.

<sup>2</sup> Al Shalhoob, Abdul Rahman, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative Laws, (Riyadh: Farazdag Printing Press, first edition, 1999), p. 233. (Arabic).

As an Islamic state the Kingdom of Saudi Arabia's constitution is God's book the Holy *Qur'an*, and the *Sunnah* (A source of Islam based on the Prophet tradition) has implemented Ash-Shura principle throughout its history: it has become one of the main and essential principles, upon which the system of rules in the Kingdom is based. The applications of Ash-Shura developed and became institutionalised before the country was fully unified and officially known as the Kingdom of Saudi Arabia. After King Abdulaziz took control of the Hijaz area in 1924 he established the first official Majlis for consultation called Majlis Al-Ahli (the Domestic Council). During the years 1924-1953 Majlis Ash-Shura performed both legislative and executive functions and played a positive role in the development of Saudi Arabia, bridging the gap between the traditions and the modernization of the Kingdom.

As a result of the establishment of the Council of Ministers in 1953, the power of the Majlis began to decline as the newly founded body took over most of its jurisdiction and embodied both the legislative and executive authorities. However, the Majlis was still legally alive but inactive until 1992 when King Fahd bin Abdulaziz re-modelled it, introducing modernizations and improvements to make it fit with the progressive development occurring in all areas of the Kingdom and to enhance its efficiency and vitality.<sup>3</sup>

The revised model of the Majlis and its members was widely welcomed by Saudi citizens, and they held high expectations of it playing a positive and significant role in the country's political, economic and social life. They also believed this major step

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<sup>3</sup> Al-Zahrani, Abdul Rahman. The Progress of Majlis Ash-Shura in the Kingdom of Saudi Arabia. (Riyadh, Majlis Ash-Shura, 2002),pp. 371-373 (Arabic).



would increase national participation and lead, in the future, to a form of political participation built upon the Islamic *Sharia*.

During the last 10 years, a neutral observer will have noticed the increase in the importance of the Majlis and its participation in the decision-making process in the Kingdom. It should also be noted that this council has gradually developed its power and capacity in various domains and become one of the primary institutions of the Saudi political system.

## **1.2 Statement of the problem**

Although the Majlis Ash-Shura has become an important political institution in the Kingdom of Saudi Arabia, it is noticeable that, among both the Saudi people and interested outside observers, there is a severe lack of knowledge about the Majlis, and misunderstanding of the nature of its functions, the role it plays, and its effectiveness at the domestic and international level, and to some degree its achievements thereof. This was confirmed by a number of objective remarks resulting from a survey on the role of the Majlis in Saudi Arabia, which was undertaken by Al-Watan,<sup>4</sup> a Saudi daily newspaper. This survey showed that there is dissatisfaction among the Saudi citizens regarding the role played by the Majlis Ash-Shura. More than 53 per cent of the total sample was dissatisfied with the role of the Council. This dissatisfaction reached a climax of 80 per cent among private sector employees, followed by 75 per cent among university professors, 65 per cent among media agents, and 60 per cent among the youth.

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<sup>4</sup> Al-Watan, (daily newspaper), no. 238, dated 25 /5/ 2001, p.14.

In addition, while conducting the research for this thesis, it became apparent through direct contact with the various groups of Saudi society, and the personal interviews held with citizens visiting the Council, that there was a lack of knowledge among the Saudi public regarding the Council's authority, its role and the nature of its functions. Moreover, the role played by the Majlis at the domestic and international levels also appears to be misunderstood.

The problem addressed by this research may therefore be summarized thus: Although the Majlis Ash-Shura has become an important political institution in the Kingdom of Saudi Arabia there is still a lack of knowledge regarding its functions, the role it plays and its effectiveness at the domestic and international level. This is because the work of the Majlis has been greatly neglected by commentators for the last 10 years. The number of academic and non-academic studies relating to various aspects of the Saudi Majlis is still small, while its functions and the role it plays in relation to domestic and international affairs has been ignored.

It is hoped that this research will provide an in depth study into the role and functions that the Majlis currently exercises, and determine the effectiveness of the role it plays at the domestic and international levels.

### **1.3 Objective of the study**

The functions of the Majlis and its role in light of its law and the Basic Law of government will be investigated. Its legislative, oversight and external roles will be discussed and its effectiveness evaluated through the eyes of the Majlis members on the basis of their actual experience and achievements during its three terms (1993–2003).



The study aims to provide fruitful results leading to recommendations that may, in the near future, help to enhance the effectiveness and efficiency of functions of the Majlis and the role it plays in the political, economic and social life of the Kingdom of Saudi Arabia. It also aims to give an objective picture of the functions, role and mission of the Majlis both inside and outside the Kingdom.

A further objective of the study will be to provide an information base of useful data which can be used to assist in the modernization and development of the existing Majlis system and help policy-makers with the enhancement of its role and in the upgrading of its power in the political system to meet the major developments and changes taking place both in Saudi society and the other Gulf States.

#### **1.4 Importance of the study**

The Majlis Ash-Shura is a prominent political institution in the Kingdom of Saudi Arabia at present and looks set to stay so in the future. It has a potentially important role to play in the development of the Kingdom in meeting the internal and external challenges faced.<sup>5</sup>

This is a worthy subject for academic study because of the high hopes for, and expectations placed upon the Majlis regarding the future of the Kingdom of Saudi Arabia. Affirmation of the importance of the role of the Majlis in preparing Saudi Arabia for the new century has been given by HRH Crown Prince Abdullah bin Abdulaziz.<sup>6</sup>

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<sup>5</sup>Al-Saud, Faisal, Islamic Political Development in the Kingdom of Saudi Arabia, Majlis Ash-Shura: Concept, Theory and Practice, (National Association of Muslim American Women Inc Sarawat Designers & Printers, 2002), pp. 135-137.

<sup>6</sup> Al-Riyadh, (daily newspaper), dated 23/1/ 2000, p.1.

In spite of the fact that the Majlis is one of the oldest and most important political institutions in the Kingdom, few studies have been conducted on it. This would appear to be the first study having the aim of investigating the current functions of the Majlis and its role at the internal and external level and evaluating the effectiveness of its function and roles. Therefore, the functions and roles of the Majlis will be discussed in detail and analysed in this thesis in order to present a basic understanding of the workings of the Council for future researchers to refer to and to build on.

Finally, this study was undertaken with the hope of providing a timely and useful input to the reform efforts in the Kingdom of Saudi Arabia. It is hoped that the work will be of such calibre and intent that it will contribute by providing a database of information that may be useful in forming a development agenda or framework for the Majlis and its members in order to enhance its effectiveness, improve its functions and the role it plays and develop its laws to match the needs of Saudi society, and to overcome the challenges it faces.

### **1.5 Research questions**

In view of the objectives of the research, it could be said that this thesis strives to find answers to the following questions:

**Question one:** What are the functions of the Saudi Majlis Ash-Shura and what role does it play at the domestic and international levels?

**Question two:** How does the Majlis Ash-Shura carry out its functions and perform its role at the domestic and international levels?



**Question three:** Are the international and domestic roles and functions of the Majlis Ash-Shura effective or ineffective, and why?

**Question Four:** How can the functions of the` Majlis and the role it plays be improved?

According to these questions the following sub-questions are raised:

**1. What is the legislative function of the Majlis?**

- What is its legislative authority?
- How is it performing its legislative function?
- How efficiently does it perform its legislative function?
- What are the obstacles that affect the performance of its legislative function?

**2. What is the oversight function of the Majlis?**

- What is its oversight authority?
- How does it perform its oversight function?
- How efficiently does it perform its oversight function?
- What are the obstacles that affect the performance of its oversight function?

**3. What is the external role of the Majlis?**

- What is its authority and activities?
- How does it perform its external role?
- How efficient is it in this role?
- What are the obstacles that affect the performance of this role?

**4. How may the functions and role of the Majlis be improved?**

- How may the legislative function be improved?
- How may the oversight function be improved?
- How may the external role be improved?

## 1.6 Previous studies on the Saudi Majlis Ash-Shura

A review of the relevant literature on the Majlis Ash-Shura in the kingdom of Saudi Arabia reveals that very few academic studies have been conducted which examine past and present experiences. However, the number of non-academic studies on various aspects of the Saudi Majlis has increased recently, although its functions and the role it plays have nevertheless been ignored. This may be due to the fact that the modern Majlis is a relatively new institution.

As there is a lack of literature and information regarding the Saudi Majlis Ash-Shura, this research will highlight the relevant academic and non-academic literature below.

Al-Saud conducted a major study<sup>7</sup> under the title “Islamic Political Development in the Kingdom of Saudi Arabia, Majlis Ash-Shura: Concept, Theory and Practice”. This study focuses on the political development in Saudi Arabia, and describes the Majlis Ash-Shura as a prime achievement of the Saudi political drive.

The objective of his study was to:

Study the reaction of the members of the Majlis Ash-Shura to the political achievement realised in the institutionalisation of the Saudi Majlis Ash-Shura.<sup>8</sup>

Al-Saud selected this objective because he is of the view that:

The amount of satisfaction that the members achieve from their appointment can reflect how pleased they are with the participation represented by selected

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<sup>7</sup>Al-Saud, Faisal, Islamic Political Development in the Kingdom of Saudi Arabia, Majlis Ash-Shura: Concept, Theory and Practice, op.cit.

<sup>8</sup> Ibid, p.102.



individuals. The members' satisfaction with the procedures administered by the Majlis would reflect the efficacy of this political experience.<sup>9</sup>

In addition, the author examined the opinions of the Majlis' members regarding the organisational, administrative and decision-making measures. Al-Saud applied a methodology that was conducted in two ways. The first was based on descriptive survey methods, in which data regarding the attitudes of Ash-Shura Council members with regard to political development in Saudi Arabia, was collected. Their opinions on organizational, administrative and decision-making procedures were also collected. The second was a study of correlation between variables. In this way, the relationship between the opinions and attitudes of the Council members on the political development of Saudi Arabia were studied against certain variables such as educational levels, geographic areas and previous experience and background.<sup>10</sup>

The study population were members of the Saudi Majlis Ash-Shura, which consisted of 90 members during the period of that study. Al-Saud opted for a questionnaire data collection. He distributed the questionnaire to all members; 38 questionnaires were completed and returned to the researcher, representing 42.2 per cent of the Council.<sup>11</sup>

From the analytical discussions, Al-Saud emphasized that when defining political developments in Saudi Arabia, it should be taken into account, that the political development in Saudi Arabia was measured on the basis of the political progress as made in accordance with the framework of Islam.

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid, pp.102-103.

<sup>11</sup> Ibid, p. 104.

The findings of this research show that the Majlis Ash-Shura had to some degree become an effective political institution in Saudi Arabia. Moreover, the study revealed the different strengths and weaknesses of the Majlis Ash-Shura. The strengths of the Majlis Ash-Shura relate to the following issues: its reference to the Holy Qur'an and the Prophet's *Sunnah*; the remarkable and effective qualifications in the performance of its tasks and duties; the quality of the members and the selection procedure which is based on specialization and previous experience; freedom of speech in the process of deliberation and decision-making; frankness, seriousness and objectivity in all sessions; the absence of all forms of affiliations and groupings among the members and, most importantly, the preservation of the interest of the general public, which is given the utmost priority.<sup>12</sup>

As regards the negative aspects of the Majlis Ash-Shura, Al-Saud is of the view that they can be attributed to the following points: the limitations in its responsibilities and jurisdictions; its financial and administrative weakness; the weakness in its information and support services; little interaction with the wider society; a lack of participation on the part of some members; the plurality of the relationship between the Majlis and the government and the style of its deliberations and decision-making.<sup>13</sup>

The study reveals that the Majlis has had some success in assuming its responsibilities. The data showed there to be satisfaction among the majority of members as regards its capabilities, its role in rationalizing the political decisions taken by the government and in the drive for comprehensive development in the country.

Al-Saud recommended that to improve and enhance the Majlis Ash-Shura it would be necessary to expand the Council's jurisdictions and responsibilities, develop committees, upgrade its executive and administrative system, activate Article 23 of the

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<sup>12</sup> Ibid, pp.135-144.

<sup>13</sup> Ibid, pp.144-157.



Majlis' laws, enforce its relationship with the government and upgrade the work policies and organizational rules within the Council.<sup>14</sup>

He also concluded that there was a need for an objective evaluation of the Majlis Ash-Shura's experience, and on the basis of the results of his evaluation, and an appropriate plan of development might be designed. Also, he recommended that further research work be conducted on the Saudi Ash-Shura's experience to shed more light on other aspects of this Majlis and its religious, social and historical roots, together with its impact on Saudi society and the comprehensive development of the Kingdom of Saudi Arabia.<sup>15</sup>

It could be said that one of the shortcoming of this study lies in the low percentage of returned questionnaires, which was only 42.2 per cent. This makes it difficult to extrapolate from the findings and results.

In addition to this study, there is some non-academic literature on the Majlis Ash-Shura that highlights different aspects of the Saudi Majlis. One important official book<sup>16</sup> published by the Majlis traces the historical progress of the Majlis Ash-Shura in the Kingdom of Saudi Arabia. It is the first study and major documentary reference that chronologically traces the developments of the Majlis Ash-Shura from its foundation to the present time. The book is divided into 3 chapters tracking the steps of the Council from the era of King Abdul Aziz to the present era of King Fahd. The work is written in a way that makes it accessible and can be used as an important source for academic researchers and those studying with the aim of identifying the role played by the Majlis Ash-Shura in both the past and present.

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<sup>14</sup> Ibid, pp.165-181.

<sup>15</sup> Ibid.

<sup>16</sup> Al-Zahrani, A. The Progress of the Majlis Ash-Shura in the Kingdom of Saudi Arabia. op. cit.

From a review of this book a variety of conclusions can be reached about the Saudi Majlis Ash-Shura. First, the Majlis Ash-Shura under the reign of King Abdul Aziz, enjoyed greater authority than it does today. It practised both a legislative function and an executive function. Furthermore, it assumed an oversight role and approved the budgets of governmental departments and Municipal Councils.

Another study<sup>17</sup> on Ash-Shura experiment in Saudi Arabia has shown that the Majlis Ash-Shura is one of oldest institutions with regard to the history of the establishment of Ash-Shura Councils in the Gulf Countries. The Saudi Ash-Shura experiment was preceded by the Kuwait Legislative Council, which was founded in 1921. The study reveals that the re-foundation of the modern Majlis in 1992 occurred as a result of the different political, economic and social developments that Saudi society had experienced compared to other countries. This is reflected in the originality of the Saudi experiment being based on the Islamic *Sharia* rather than on ideas imported from abroad. The study also concludes that several factors contributed to the foundation of the modern Saudi Majlis. The most important of these factors were the changes that took place in the Saudi political environment – represented by the consequences of the Gulf War in 1990. These consequences entailed the necessity of extending the scope of political participation. They also created a public opinion that called for real participation in the country's affairs and a greater chance for citizens to participate in the decision- making process.

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<sup>17</sup> The Diplomatic Centre for Strategic Studies, The Reality and Horizons of Ash-Shura Experiment in Saudi Arabia, (Kuwait, 2001).



The study indicated that the first term in the life of the Saudi Majlis (1993-1997) had been fundamental in nature, and was mainly concerned with the establishment of its practices and principles. The role of the Majlis was confined to the study of issues referred to it by the Prime Minister (the King), and its resolutions were not binding on the political authority. However, the second term of the Majlis Ash-Shura (1997-2001) represented a new stage in its history. During this period, it devoted its activities to specific important issues such as health, finance, security and educational affairs.

The study concluded that the Majlis Ash-Shura may turn out to be an effective institution under the changes currently taking place in the Arab world in general and the Gulf Co-operation Council countries in particular, especially with regard to the emergence of the idea of expanding the scope of political participation.

The aim of another study<sup>18</sup> was to ascertain the role played by the modern Majlis Ash-Shura in the social and economic development of Saudi Arabia. This study showed that the foundation of the Majlis in 1992 brought about a change in the traditional method of policy and law-making in the Kingdom. The study indicated that decision-making in Saudi Arabia before the foundation of the modern Majlis Ash-Shura was done through collaboration between the ministries and the Council of Ministers. This meant that there were two views taken into account with regard to the general policy and development plans. It concluded that the foundation of the Majlis Ash-Shura brought a new element to the formula – being a neutral body, which is subjectively concerned with studying issues related to general policies. This method has meant a real shift in the formula of decision-making in Saudi Arabia.

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<sup>18</sup>Al-Ja'afary. A, the Majlis Ash-Shura's Role in Saudi Development, (a paper presented to a symposium entitled Ash-Shura in Islam and its relation with the contemporary life: Riyadh, 25<sup>th</sup> Jan 2001).

This study also showed that the Majlis Ash-Shura has participated in improving the performance and effectiveness of government departments through discussions, deliberations and listening to many professional views. In addition, the negative aspects of decision-making have almost been overcome, consequently the achievement of the development objectives and plans has become much more possible.

The study reached the following conclusions:

1. The foundation of the Majlis Ash-Shura is considered as an important developmental political achievement, which has seen considerable results in developing policies through the various decisions it makes.
2. The Majlis has been a step towards extending the participation base of decision-making.
3. Although the Majlis members are not chosen by election, they cover a wide spectrum of qualified, educational, scientific, cultural and religious sectors, and can express people's interests, wishes and hopes, as they are not alienated from the society.

Another paper<sup>19</sup> was written with the aim of identifying forms of Ash-Shura applications in the Kingdom, with an emphasis on the practises of the Majlis Ash-Shura from a historical perspective. The study indicated that a strategy of gradual change and

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<sup>19</sup>Al- Malek, S., the Form of Ash-Shura Applications in Kingdom of Saudi Arabia, (a paper presented to a symposium entitled Ash-Shura in Islam and its relation with the contemporary life: Riyadh, 25<sup>th</sup> Jan 2001).



the development of the Majlis' law and its formation have been applied since its foundation and these changes and developments have been issued by Royal Decrees. It also pointed out that despite the fact that the Majlis' role had been limited since the foundation of the Council of Ministers, Ash-Shura (consultation) had always been maintained in the Kingdom in different and various forms.

The re-establishment of the Majlis Ash-Shura in 1992 revived the practise of Ash-Shura (consultation) through a specialized body (i.e. the Majlis), which appeared to be more effective in the political life of the Kingdom. Moreover, the new Basic Law of the government did not discuss the way in which the Majlis Ash-Shura should practise its jurisdictions. Instead this matter was left to be decided by the Majlis' own laws. This allowed for a faster and smoother course for the development of the Majlis' role. The study also pointed out that the legislative sources in the Kingdom were based on the Islamic *Sharia* (law) and the authority of the Majlis Ash-Shura stemmed from this law, thereby giving it legitimacy.

The Saudi Majlis exercises various jurisdictions that ensure true participation in laying down the country's legal system and policies. The Majlis' law grants it the right to discuss the general economic and social development plans. Moreover, the Basic Law of the government allows the Majlis to organize many governmental financial matters through laws—which give the Majlis Ash-Shura the chance to study them and give its recommendations before they are issued through Royal Decrees.

Al- Malek stated that the Saudi Majlis is vested with powers which are similar to those exercised by other Ash-Shura Councils in other Arab countries. He also revealed that the current law adopted by the Saudi Majlis has given it the right to suggest and regulate

laws. This right is stipulated by Article 23 of the Majlis' Law, which states that any group of 10 members of the Majlis has the right to propose a new draft law or an amendment to a law already in force. This right is not available in many similar types of council in Arab countries where the right to suggest a new law is confined to the government. Moreover, the study indicated that the Saudi Majlis is different from other Arab councils in terms of its specialty in the interpretation of national laws. At the same time, the Majlis law stipulates that the Majlis has the right to discuss the annual reports submitted by the ministries and the different governmental departments, and give suggestions and recommendations. This right gives the Majlis the role of overseeing the performance of governmental departments.

A study<sup>20</sup> of the second (1997-2001) Saudi Consultative Council (Majlis Ash-Shura) reveals that "the Majlis is the Kingdom's highest political institution, after the royal court and the Council of Ministers".

The study also reveals several functions that go beyond the primary role of this institution as a "consultative organization" which are honorific, symbolic, representational and co-operative in nature.

Dekmejian believes that appointment to the Majlis is an important honour and reward or commendation bestowed upon a Saudi citizen, which is based on royal trust, the trust placed by the King in Majlis members. This is because their selection brings to them and their families prestige and respect. He gives as an indication of the honorific role of the Majlis the prominence given by the Saudi press to each of the selected members by publishing their photographs, biographies and accomplishments.

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<sup>20</sup> Dekmejian, Harir, "Saudi Arabia's Consultative Council", The Middle East Journal. Vol. 52, no. 2 (Spring 1998), pp. 204-218.



Dekmejian further believes the Majlis plays “a powerful symbolic role both domestically and internationally, particularly in blunting foreign media criticism of the Saudi system”, and that this role cannot be underestimated. The Saudi system, through highlighting the key role of the Majlis and the qualifications of its members, can rightly claim that they have chosen “the cream of men” to serve in the Consultative Council and present it as a showcase of men with doctorates and high qualifications.

In addition, Dekmejian thinks the Majlis plays a significant representational role, as it is the only Saudi institution that brings together the different segments of Saudi society. He also thinks that the Majlis performs a co-operative function, since the members appointed by the King are “carefully chosen not only to bring together the (cream of men) but also to co-opt adroitly the different segments of Saudi society”.

Dekmejian concludes in his study that “ the effectiveness of the Majlis will depend on whether the King wishes to make it a useful mechanism, as well as on the ability of the Majlis leadership to expand the scope of the organization’s influence and responsibilities within the political system”.

In conclusion, it can be said that there is a dearth of literature and information on the subject of the Saudi Majlis Ash-Shura and there are only rare academic researches in this field. The differences between the previous studies and this study is that the previous studies focused on studying of the Majlis’ history and its establishment as an achievement of the political development in Saudi Arabia, while this study is considered to be the first study investigating the current roles and functions of the Saudi Majlis and evaluating its effectiveness. The contribution to this study provides the reader with a basic understanding of the working of the Saudi Council and its role in making decisions regarding domestic and international affairs of the Kingdom.

## 1.7 Experiments of Ash-Shura Councils in the Gulf Countries

The experiment of the Saudi Majlis Ash-Shura can be better understood by reviewing the experiments of Shura councils in other Gulf States (the United Arab Emirates (UAE), Bahrain, Kuwait, Oman and Qatar) because these councils share many common features with respect to their foundation and development and the nature of their formation.

Turky<sup>21</sup> is of the view that one of the major features that distinguish Ash-Shura councils in the GCC countries is the fact that they are created in the same environment of the Gulf area rather than being imported from other environments. Turkey sees another common feature among the Shura Councils in the GCC countries, which is the similarity of their formation mechanisms (where – in 4 of these councils – it is more common to appoint of members than elect them). They are also similar in the way they have been founded and developed. With the exception of Saudi Arabia and Kuwait, the foundation of the Shura councils came after the countries had gained independence from the British in the 1970s. Kuwait, for example, was the first Gulf country to found a legislative institution. The first Legislative Council was founded in Kuwait in 1921, followed by the Majlis Al-Ahli (the Domestic Council) in Saudi Arabia in 1924. The National Council was founded in Qatar in 1970, and in 1973 two national councils were formed in the UAE and Bahrain. The Shura experience in Oman appeared quite late with the formation of the Consulting Council in 1981.<sup>22</sup>

Ehteshami<sup>23</sup> is of the view that many factors have influenced the GCC states to open up the political arena to the public. He thinks “the 1990s brought new challenges and winds of change” which have played an effective role in the enhancement of political

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<sup>21</sup>Turky, Ahamed, “the experiments of Shura councils in Gulf States,” Al-Destour newspaper, no. 175, 17/2/2002, p.7.

<sup>22</sup> Ibid, p.7

<sup>23</sup>Anoushiravan Ehtesami, “Reform from above: the politics of participation in the oil monarchies.” International Affairs, Vol.79, no. 1, January 2003, pp.53-75.



participation and led to greater development of the Shura system in the GCC states. One of the major challenges faced by these states was the Iraqi invasion of Kuwait. A second challenge was the falling of oil prices that consequently led to a budgetary deficit and high unemployment. The end of the Cold War and the collapse of the Soviet Union in 1991 also brought new forces of political reform to the region. Another important factor was the influence of the political reforms taking place in neighbouring states such as Iran and Yemen. Increasing globalization and the pressures of the modern communications system also had a major impact.<sup>24</sup>

Another study indicates that there are other factors that support the growing tendency towards the enhancement of political participation in the GCC states. One of these factors is the development of the social structure of these societies that is represented by the growth in population and the increasing number of literate and educated people, which effectively enhances and raises the standard of political and cultural awareness and creates a wide spectrum of people interested in and caring about public affairs. In addition, the modern information revolution, the spread of the Internet culture and the emergence of a new generation of Gulf students who are or have studied in Western schools have all had an impact on the level of political awareness. All these factors make it vital that the governments of the GCC states enhance political participation by establishing new Shura councils or developing the existing Shura system.<sup>25</sup>

However, it can also be said that there are limitations controlling the development of the Shura and democratic experiments in the GCC states. One of these limitations relates to

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<sup>24</sup> Ibid, pp.59-62.

<sup>25</sup> The Diplomatic Centre for Strategic Studies, the Development of Ash-Shura and Democratic Experiments in the GCC States, (Kuwait: 2001).

the security issue. The improper and unbalanced population structure of most of the Gulf countries and the tribal influence that exist serve to limit or rather hinder the course of political development and the enhancement of political participation. This issue emerged particularly in the Omani Shura Council election experiment, and was witnessed again in the Municipal Council elections in Qatar. In virtue of these facts, some of the GCC countries prefer to appoint the members of their Ash-Shura Councils rather than becoming involved in the election experiment.<sup>26</sup>

Al-Romaihi<sup>27</sup> considers that developments witnessed in the GCC states indicate that “political participation”, “democracy” or the “Shura experiment” (whichever name is given or method applied) have changed within the last few decades and they are no longer counted as political taboos that cannot be discussed or approached. Whether there is a demand for the Shura or democracy is not at issue – since all concerned parties are in agreement on the matter. The issue has more to do with the form and method of implementation, and the type of authority to grant the new political institution.<sup>28</sup>

Al-Romaihi is of the view that, in spite of the similarity between the experimental Ash-Shura and the legislative institutions in the GCC states, it should be remarked that these institutions do not enjoy the same authority, level of performance effectiveness or level of public participation.<sup>29</sup>

It can be safely said that there are 3 types of institutions. The first is represented by the Kuwaiti experiment which (uniquely) has a fully elected legislative council (the

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<sup>26</sup> Ibid.

<sup>27</sup> Al-Romaihi, “Mohammed, Reforms in Bahrain,” Al hayat newspaper, issue no. 14010, 25<sup>th</sup> July 2001, p.7.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.



National Assembly) consisting of 83 members. According to the views of many experts this is the most advanced experiment among GCC countries at the present time.

Banan considers that what is special in the Kuwaiti experiment is the fact that although it has democratic features, it is distinguishable from the Western democratic experiment as it reflects the Gulf states' individuality, and, at the same time, has an effective oversight role over the executive authority, which has been the main reason behind the dissolution of the Council three times since its foundation.<sup>30</sup>

Banan points out that the Kuwaiti experiment has encountered many challenges. These are represented by the absence of political parties, the deprivation of some social groups of the right to participate in the political process, the primacy of the executive authority over the legislative authority, and more importantly, the narrowness of the electoral base due to the fact that until recently only twenty one-year old males had the legal right to vote. This meant that only 14 per cent of the Kuwaiti population were allowed to participate in the election process – a fact that led to considerable controversy regarding the notion that the National Assembly represented the whole of Kuwaiti society. The Kuwaiti Amir's (Prince) announcement of his intention to grant Kuwaiti women the right to vote is still a controversial issue after the rejection of this proposal by the National Assembly.<sup>31</sup>

The second type of Ash-Shura experiment that was undertaken by a GCC country is that implemented in the Sultanate of Oman in 2000 and Bahrain. The Omani experiment is a combination of the Shura Council (consisting of 83 selected members) and the State

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<sup>30</sup> Banan, Talal, "the Kuwaiti Legislative Experiment," Al- Siyass Al -Dawliya, issue no. 142, October, 2000, pp.66-71.

<sup>31</sup> Ibid.

Council (consisting of 48 members appointed by His Majesty the Sultan) which together form what is known as the Oman Council.

The Omani Shura experiment is interesting. It has been created on the basis of gradual political modernization that fits well with the nature of Omani society. The experiment has applied a developmental technique which extended over 9 years with the aim of expanding public participation in the political process and grasping the Omani elites. This modernization has gone through 3 stages. The first stage witnessed the foundation of the Shura Council through the process of members being appointed by the Sultan. During the second stage some changes took place resulting in the Council being made up of both elected and appointed members. The elections took place at the local level (states), with the final selection being made by the Sultan. During the third stage 2 councils were founded; the first consists of elected members and the second consists of appointed members.<sup>32</sup>

The Omani Shura experiment is distinguished by its gradual development, which avoided the problems associated with enforcement and rapid change. At the same time, it maintains and strengthens the political system and the stability of the country.<sup>33</sup>

From a practical point of view, the Shura Council has played a positive role in the development of Oman and the performance of its government. The Council now offers live transmission (through television) of its sessions held to question ministers, allowing the Omani people to fully experience the experiment of new political participation.<sup>34</sup>

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<sup>32</sup> Al-Watan daily newspaper, dated 26/12/ 2001.

<sup>33</sup> The Diplomatic Centre for Strategic Studies, *The Development of Ash-Shura and Democratic Experiments in the GCC States*, op.cit.

<sup>34</sup> Ibid.



In 2002, Bahrain began applying the two-council system making it the second GCC country to adopt the idea. Some amendments were made by King Hamad bin Isa Al Khalifa as one of his reforming projects (the National Action Charter) that included a wide range of constitutional reforms. These reforms attained unprecedented national support (98.4%) with the result that the State of Bahrain has been transformed into an institutional constitutional hereditary monarchy and the State has become a Kingdom.<sup>35</sup>

In 2002, the parliamentary system, similar to that in the United Kingdom, was reformed to include a directly elected legislative body of 40 members and a Shura council of 40 appointed members. Women were now allowed to vote and stand as candidates. As no women gained places in the parliamentary election, the King attempted to redress the situation by appointing 4 women to the Shura council. The National Assembly held its first joint sitting on 15<sup>th</sup> December 2002. Prior to the parliamentary election, Municipal elections took place on 9<sup>th</sup> May 2002, the first since 1957, and women had the right to both vote and stand as candidates.<sup>36</sup>

The National Assembly in Bahrain has gone through two different experiences; the first was the election of a parliament in 1973 (dissolved in 1975) and the second was the appointment of the Shura Council in 1992.<sup>37</sup>

What distinguishes the Bahrainian reformation experiment is that the political leadership itself was the body that took the initiative for the reforms by taking the first step in allowing the possibility of political, constitutional and Shura reformation by acting through the governing system. The reformation in Bahrain was an historic event and as such it represents one of the most outstanding political developments and

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<sup>35</sup> Anoushiravan Ehtesami, "Reform from above: the politics of participation in the oil monarchies," op. cit. p.66. Also quoted in Al-Watan daily newspaper, 28<sup>th</sup> April 2003, p.2.

<sup>36</sup> Ibid

<sup>37</sup> Ibid.

transformations that have occurred in the Gulf area. It could be taken as a model for transformation experiences, which are intended to enhance popular participation and political reformation in the Arab world as a whole.<sup>38</sup>

The third type of Ash-Shura experiment in the GCC states is represented by the Shura institutions of Qatar, the UAE and Saudi Arabia. These institutions have witnessed a level of development that differentiate them from the other experiments. Harb<sup>39</sup> is of the view that the Shura councils in these countries (in addition to Oman) have no legislative authority. Their role is limited to giving consultation. In these countries the legislative authority lies exclusively with the ruler. By contrast, in the UAE, Kuwait and Bahrain the ruler shares the legislative role with the legislature and the Shura Council; no law can be issued without the approval of the Council.

Qatar was the third GCC country to introduce a legislative institution – with the National Council founded in 1970, followed by the Shura Council in 1972. The Amir (Prince) of Qatar is the only party authorized to appoint the 20 members of the Shura Council. The Shura Council is chiefly concerned with discussing legislation proposed by the Council of Ministers before it is sent to the Amir for approval and issuance. It is also concerned with discussing the country's general strategy from political, economic and social aspects.<sup>40</sup>

In 1996, Qatar witnessed a number of political developments and transformations when the Country's Basic Law stipulated that the Islamic *Sharia* is the source of all

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<sup>38</sup> Ibid.

<sup>39</sup> Harb, Wassim, Structures of the Arab Parliaments, (a paper addressed to Symposium on Arab Parliamentary Development Beirut, 16-18 May 2000).

<sup>40</sup> The Diplomatic Centre for Strategic Studies, The Development of Ash-Shura and Democratic Experiments in the GCC States, op.cit.



legislation, and that democracy is the ruling principle. Under this change, the Qatari political system has been very close to the constitutional form. The powers of the Prime Minister and the Amir have been separated, and the Royal Family Council has been founded. Municipal elections were conducted in 1999, and the Qatari women were able to vote for the first time.<sup>41</sup>

The United Arab Emirates (UAE) experiment was launched after the establishment of the Emirates unity in 1973 when the Federal National Council was founded. Al-Shaheen<sup>42</sup> indicates that, unlike other constitutions, the Emirate Constitution did not clearly state or specify which national body should undertake the legislative role.

The Federal National Council consists of 40 members representing the people of the 7 Emirates. The term of membership is 2 years. The absence of a specific method for the selection of members renders the selection authority exclusive to the Governors of the Emirates.<sup>43</sup>

According to Al-Shaheen, the authority of the Federal National Council is limited to discussing the proposed federation laws submitted to it by the Council of Ministers, to accepting or rejecting amendments or additions made to these proposals and to raising questions, posing general topics for discussion and giving recommendations. Al-Shaheen is of the view that the decisions and views of the Council can be overlooked or disregarded because the UAE Constitution does not grant the Council an effective

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<sup>41</sup> Al-Watan daily newspaper, op. cit, 26<sup>th</sup> Dec. 2001.

<sup>42</sup> Al-Shaheen, Abdulrahim, "the Legislative authority in the United Arab Emirates," Journal of Gulf and Arab Peninsula Studies, Vol 90, Sept 1998, pp.135-179.

<sup>43</sup> The Diplomatic Centre for Strategic Studies, The Development of Ash-Shura and Democratic Experiments in the GCC States, op.cit.

legislative role. Thus, the Council is considered to be a mere consultative body that the higher authority may or may not listen to, as the actual legislative power lies in the hands of the Supreme Council of the Union.<sup>44</sup>

## **1.8 Research methodology**

The main objective of this section is to explain the procedures and methods that were followed in this research to investigate the functions of the Majlis Ash-Shura and the role it plays. Because of the lack of literature and information on the subject of the Saudi Majlis Ash-Shura, fieldwork was considered the most appropriate method of gathering data. On this basis, the importance of the questionnaire, document survey and interviews to the gathering and analysis of data, for the purpose of achieving reliable results, will be outlined.

### **1.8.1 Methodology and research instruments**

There are 2 methods of research in the field of social science: quantitative and qualitative. Kvale<sup>45</sup> maintains that the word quantitative refers to “how much”, “how large” and the “amount of something”, while the word qualitative refers to “what kind” or the “essential character” of something. In this study, both methods were used for collecting the data. The benefits of using more than one method, as Marshall and Rossman<sup>46</sup> mentioned, is that the strong points of one method can compensate for the weak points of the other.

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<sup>44</sup> Al-Shaheen, “the Legislative authority in the United Arab Emirates,” op. cit. pp.135-179.

<sup>45</sup> Kvale, S. *Interviews: An Introduction to Qualitative Research Interviewing* (London: Sage Publication, 1996), p. 67.

<sup>46</sup> Marshall, J, Rossman, G, *Designing Qualitative Research* (London: Sage Publication, 1995). p. 99.



It was therefore important to use more than one method in this study to improve the validity of the data. This also helps to reduce the effect of cultural influences that might prevent individuals from giving reliable answers.

In order to discover the functions of the Saudi Majlis Ash-Shura and the role it plays at the domestic and external levels, and to ascertain the extent of the Majlis' effectiveness from its actual experience, this study used 3 types of data collection: a questionnaire, a document survey and semi structured interviews. The following pages will provide an overview of these instruments.

#### **1.8.1.1 *The questionnaire***

The questionnaire<sup>47</sup> targeted all members of the Majlis Ash-Shura from its formation in 1993 to 2003, thus covering its three terms.

Prior to the design of the questionnaire, the researcher had preliminary contact with members of the Majlis, members of the Executive Authority and academic staff. These individuals were asked for their views on the functions of the Majlis and the role it plays at the domestic and international levels. The questionnaire was based on the researcher's background and a study made of the Council's documents, in addition to the views he gathered from the interviewees. Accordingly, and before distributing the questionnaire to the sample, the researcher conducted a pilot study of 12 members of the Majlis Ash-Shura. The final version was developed in the light of these members' comments. The main purpose of the questionnaire was to ascertain the views of all the members about the functions of the Majlis Ash-Shura and the role it plays in the internal and external affairs of the Kingdom of Saudi Arabia. A self-administered questionnaire

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<sup>47</sup> The questionnaire can be found in Appendix One.

was chosen for the purposes of this study to allow the researcher to make personal contact with the respondents. This enabled him to explain the objective of the study to the members, provide the security required for them to answer the questions honestly and to assist the members in understanding any unclear questions. This personal contact also helped to build a bridge of trust, which is reflected in the high response rate, especially among the current members of the Majlis.

The questionnaire covered the Assembly (Majlis) members' personal information and background. However, the respondents were not asked to give their names. They were asked to evaluate specific statements about the Majlis' legislative function, its oversight function and its external role. Furthermore, they were presented with additional statements to enable the researcher to ascertain their opinions regarding other important issues, such as the effectiveness of the Majlis' function and role, the obstacles that influence the performance of the Majlis and suggested methods to improve its effectiveness.

In addition, a question was added at the end of the questionnaire to allow the respondents to add their comments and to freely express their views and reveal matters of concern to them. The method of using statements to elicit answers was followed since the members typically have a busy schedule and may not have found the time to fill in a long questionnaire.

The statements of the questionnaire were designed to elicit responses using a 5-point scale (strongly agree, agree, undecided, disagree, and strongly disagree). The reason the researcher used this method was to avoid channelling the respondents' answers into a



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narrow field of choice. This is a method commonly used in the field of social science research.<sup>48</sup>

Before distributing copies of the questionnaire to the members, permission was sought from the Chairman of the Majlis Ash-Shura, Sheik Dr Saleh Bin Hemaïd who was co-operative and keen to help the researcher conduct this fieldwork. Furthermore, Dr Humoud Al-Badr, the Secretary General of the Majlis Ash-Shura, wrote a letter to each member explaining the objectives and importance of the proposed study and encouraging them to fill in the questionnaire and return it directly to the researcher. The questionnaire was distributed in July 2003. This being the beginning of the annual session of the Majlis Ash-Shura when all members are present at the Assembly it is the most suitable time for doing such fieldwork in Saudi Arabia. 118 copies of the questionnaire were distributed and 94 were completed and returned, with 4 being disregarded because they were incomplete. The percentage of completed questionnaires was therefore 76.27 compared with the low percentage of 42.2 reached in a previous study of the Majlis.

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<sup>48</sup> Robson, C, Real World Research, A Resource for Social Scientists and Practitioner Researchers, (Oxford: Blackwell, 1996).

**Table 1-1 Sample distribution of members of the Majlis Ash-Shura**

<b>The Sample</b>	<b>No. of Sample</b>	<b>The Respondents</b>	<b>Percent</b>
<b>Members</b>	118	90	76%
<b>Ex-members</b>	75	35	47%

While the percentage of questionnaires returned by the current members was high, the number returned by ex-members was only 46.76 per cent. This percentage is relatively low and could be explained by the fact that a proportion of the ex-members, approximately 18 in total, now occupy high positions in the government. They may have found it difficult to reply to some questions regarding their views on one of the important political institutions in the Kingdom of Saudi Arabia. They may have felt that any criticism of the Majlis could be considered (directly or indirectly) to be a criticism of the government. Other reasons may be that most of the ex-members live a distance away from the Majlis Ash-Shura headquarters in Riyadh, which rendered it difficult for the researcher to make personal contact with them, while some now live outside the Kingdom and others have passed away.

Faxing was the most suitable approach for distributing the questionnaire to ex-members since all of them have access to this service. To a lesser extent, the telephone was used for following up the questionnaire, although this was expensive and more time consuming. Despite these difficulties, 35 questionnaires were returned representing a variety of ministers, ex-ministers and other ranking officials.



### **1.8.1.2 Document survey**

Contrary to previous studies conducted on Ash-Shura Council, this study offers a different method, based on a variety of statistical and information data gathered from the Majlis' documentation, records, archives and databases that cover its 3 terms (1993–2003).

It is the first time this method has been employed, as the Majlis has not previously allowed researchers access to its official and unofficial documents. The Council is very strict with regards to its documents. The main reason for this restricted access is the Majlis by-laws, specifically Article 14, which does not give permission to anyone other than the Council members to access an official document. Another possible reason may be that the official documents often deal with sensitive political and security issues.

The aim of using this method was to investigate the actual functions of the Majlis Ash-Shura and its role and achievements at the domestic and international levels. It would enable the researcher to ascertain the change in functions of the Majlis during its 3 terms and compare its effectiveness during each of these terms. In addition, it enabled an assessment to be made of how much progress the Majlis has made in its role in the decision-making process at the domestic and international levels.

The material gathered and studied has provided a rich source of information and statistical data that helps to support the argument of the data analysis of the thesis.

One of the obstacles faced during the fieldwork was that it was forbidden to photocopy the Council's documents or remove them from the premises of the Majlis. They had to be surveyed and studied on the premises during normal working hours. A great deal of

time and effort were therefore required to gather the relevant information from the large number of materials. This led to the time spent conducting the fieldwork in Saudi Arabia being extended by 8 weeks.

### **1.8.1.3 *The interviews***

In addition to the aforementioned methods used for data collection, personal interviews were also conducted. This technique helped to fill in some gaps and strengthen the discussion, highlight certain points, and gather further necessary information that was difficult to attain from the questionnaire. The personal interview is considered the best way to gain an interviewee's trust and to obtain a high response rate.<sup>49</sup>

In addition, the recent positive changes in Saudi Arabia regarding the freedom of the press and freedom of speech were crucial factors in the decision to adopt this instrument. Without this relative relaxation of censorship it would only have been possible to gain an insight into the workings of the Majlis by listening to Saudi specialists and experts in this field.

Semi-structured interviews were conducted. The main objective of using this type of interview is to allow interviewees a fair degree of freedom concerning what they talk about, how much they say and how they express their views<sup>50</sup>, to encourage them to answer the questions in depth and volunteer details without feeling under pressure and to allow the researcher to probe beyond the answers.

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<sup>49</sup>Weisberg, Herbert and Bruce Bowen, An Introduction to Survey Research and Data Analysis. (San Francisco: W.H. Freeman and Company, 1977), p.59.

<sup>50</sup> Drever, E., Using Semi-Structured Interviews in Small-Scale Research a Teacher's Guide (Glasgow: the Scottish Council for Research in Education, 1995), p. 13.



### **a. The interview sample**

The people interviewed were chosen by purposive sampling. Cohen and Manian<sup>51</sup> stated:

In purposive sampling, researchers hand-pick the cases to be included in the sample on the basis of their judgement typicality. In this way, they build up a sample that is satisfactory to their specific needs.

21 people were interviewed which was nearly 10 per cent of the study sample of 193. The interviewees were asked questions based on certain issues relating to the Majlis and its role. They were also asked to give their suggestions for improving the role of the Majlis and its functions. The interviewees can be categorized as 3 groups as described below.

### **b. The Majlis Ash-Shura members and key staff**

The researcher has interviewed 9 of the Majlis Ash-Shura members and its key staff. The main objective of the interviews within the Assembly members was to obtain detailed answers to some of the questions asked in the questionnaire, to listen to the members in order to get a wider picture of the role and functions of the Majlis, and to ascertain their experiences, evaluations and suggestions regarding these matters. The following individuals were interviewed:

1. HE Dr. Saleh Bin Hemaïd, the Chairman of the Majlis Ash-Shura and a member of the Board of the Senior *Ulama* in Saudi Arabia.

2. HE Dr Humoud Al-Badr, the Secretary General of the Majlis.

3. HE Dr Abdulaziz Al-Thinayan, the head of the Committee of Education and Cultural Affairs.

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<sup>51</sup> Cohen, L, Manion, L, Research Methods in Education, (London: Routledge, 4<sup>th</sup> edition, 1994), p. 89.

4.HE Dr.Abdulaziz Al-Nuaem, the head of the Committee of Regulation (Law) and Administration.

5.HE Dr Mohammed Al-Hulwah, the head of the Committee of Foreign Affairs and the Faculty of Political Science, King Saud University.

6.HE Dr Saleh Al-Malik, the head of the Family, Social and Health Affairs Committee.

7.HE M. Mohammed Baker, a member of the Financial Committee.

8.Mr Ahmed Al-Yahia, the acting Vice-Secretary General.

9.Mr Abdulhkim Al-Mouamr, the Director General of the Parliamentary Relations Department.

### **c. Members of the executive authority**

The interviews targeted members of the executive authority who had previously had experience as Council members, or a connection with the Majlis' work. They were asked about their opinions on the functions of the Majlis Ash-Shura and the role it plays at the domestic and external levels, about the obstacles that can affect these functions and roles, and how to improve its effectiveness. They were also asked about executive-legislative relations especially between the Majlis Ash-Shura and the Council of Ministers and other related ministries and agencies. The following individuals were interviewed:

1. HE Dr Muttlab Al-Nafissah, the Minister of State and a key member of the Council of Ministers, and a member of the 10 member committee that wrote the Basic Law of the government and the Law of the Majlis Ash-Shura.

2. A government official who asked to remain anonymous.

3.HE Mr Mohammed Al-Naffa, the President of the Investigation and Monitoring Bureau and an ex-member of the Majlis Ash-Shura.



4. HH Prince Dr Turki bin Mohammad bin Saud Al Kabir Al-Saud, the Deputy Foreign Minister.
5. HRH Prince Dr Faisal Bin Mishal Al-Saud, a political analyst and adviser to the Second Deputy Prime Minister, the Minister of Defence and Aviation.
6. A government official, who asked to remain anonymous.

**d. Academic staff**

Academic specialists from various institutes and universities in the Kingdom were also interviewed. These interviews were more open and allowed the researcher to listen directly to things that the members of the Majlis may have felt unable to say on record. The academics were interviewed according to their experience and specialization. The following individuals were interviewed:

1. Dr Mohammed Al-Jarba, an assistant Professor at the Law Department, King Saud University, and the Vic-Chairman of the Law Committee in the Experts Division of the Council of Ministers.
2. Dr Saleh Al-Rajhi, an associate Professor of International Relations at the Institute of Diplomatic Studies and the Foreign Ministry.
3. Dr Khalid Al-Ali, an assistant Professor of International Relations at the Institute of Diplomatic Studies and the Foreign Ministry.
4. Dr Ayoub Al-Jarbou, an assistant Professor at the Law Department of the Institute of Public Administration.
5. Dr Fuad Mousa, an associate Professor of Constitutional Law at the Institute of Public Administration.
6. Dr Khalid Al-Dhaheer, an assistant Professor of Constitutional Law at the Institute of Public Administration.

#### **e. Interview procedures**

The interviews were conducted during the fieldwork, and took place according to the availability of the interviewees. The researcher explained to the interviewees the purpose of the interviews and the time it might take to complete them. A pledge of confidentiality was given before the interviews began. Audio recording and taking notes were the techniques used to record the data during the interviews. Most of the participants agreed to the audio recording of their interview and were happy to talk freely about this subject. Others preferred not to be audio recorded, but instead to have notes taken during the interview. Few of them asked the researcher to show them the final draft of their interview. It should also be noted that in some interviews, even though the interviewees did not object to the proceedings being audio recorded or notes being taken, they nevertheless requested that their names not be mentioned in the script.

Generally speaking, the trust between the interviewees and the researcher were important factors when conducting the interviews.

### **1.9 Organization of the research**

This thesis is divided into 8 chapters. An outline of each chapter is given below.

**Chapter One** is the opening chapter of the thesis and provides a background to the general elements of the research and its objectives, considers the statement of the problem and gives an outline of the major research questions. There is also a review of the literature dealing with the Saudi Majlis Ash-Shura, and a discussion of the methodology used in conducting the fieldwork and the main research tools used.

**Chapter Two** introduces the reader to the roots of the Saudi Majlis Ash-Shura. It discusses the Ash-Shura principal in Islam and explains its meaning, importance, and scope, and the obligation of Ash-Shura.



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**Chapter Three** provides background information on Saudi Arabia's political system. It reviews the executive and legislative authorities in the Kingdom. It also sheds light on the constitutional principles of the country.

**Chapter Four** looks at the historical development of the Majlis Ash-Shura. It traces the adoption of the principle of Ash-Shura in the Kingdom of Saudi Arabia more 2 centuries ago. This chapter also gives a clear picture of the Majlis Ash-Shura in the Kingdom today with a detailed description of the structure of the Majlis and its authorities and functions.

**Chapter Five and Six** address the functions of Saudi Majlis Ash-Shura at the domestic level. The first discusses the legislative function, while the second focuses on the Majlis' oversight function. These two functions, as performed by the Majlis, are investigated and the extent of their effectiveness identified.

**Chapter Seven** identifies the role played in practice by the Majlis Ash-Shura in the external affairs of the Kingdom of Saudi Arabia and determines its contributions to and activities in this field. It also investigates and identifies the extent of the effectiveness of this role and determines the obstacles that have been faced.

**Chapter Eight** examines the opinions of the Council members on some suggested ideas of how to enhance the functions of the Council and the role it plays in relation to domestic and international affairs.

**Chapter Nine** presents the main findings of the research as well as some recommendations that it is hoped will contribute to the improvement of the functions of the Saudi Majlis Ash-Shura and the role it plays at domestic and international levels.

## 1.10 Conclusion

The aim of this chapter has been to present the general elements of the research, and review the literature dealing with the subject of the Saudi Majlis Ash-Shura. In addition, it has reviewed the methodology and the main research tools used in the study. It may be noted that the qualitative and quantitative methods were combined to enhance the understanding of the functions of the Majlis Ash-Shura and the role it plays. Combining these 2 methods enabled the researcher to identify the actual functions and role at the domestic and international levels.

It can be clearly seen that there is a lack of literature and information on the subject of the Saudi Majlis Ash-Shura. The researcher therefore relied on fieldwork for gathering primary data and sources. These data and sources are based on a questionnaire targeting all members of the Majlis Ash-Shura during its 3 terms, a survey of the official and non-official documents of the Majlis, and a series of interviews with members of the Majlis, the executive authority and some academic staff. The secondary sources comprise mostly books, journals, magazines and newspapers articles.

Although there were some difficulties during the fieldwork, the researcher's background and experience of the Majlis Ash-Shura, and his relationship with its Chairman, members and staff, helped greatly. Moreover, the researcher was fortunate in being allowed access to various documents and materials, which hitherto has been denied to others.



## Chapter Two: The Principle of Ash-Shura in Islam

### 2.1 Introduction

In order to provide an understanding of the Saudi Majlis Ash-Shura, this chapter will clarify the Islamic principle of Ash-Shura and identify its meaning, importance, scope and obligation.

### 2.2 The concept of Ash-Shura

Ash-Shura or Al-Shura is an Arabic word derived from the Arabic verb shawar meaning to consult with someone and seek his advice and counsel. Ash-Shura has several meanings, among which are the seeking of opinions of experts and specialists on issues concerning the affairs and interests of the nation, the process of mutual consultation and the process of seeking advice in a particular matter. Thus, the origin of such consultation is seeking counsel and reaching a conclusion. This requires that several participants discuss an issue, exchange views and reach a conclusion.<sup>1</sup>

Ash-Shura provides the right path and is the most appropriate way to bring about conclusions, reach correct ideas and opinions, obtain facts and avoid mistakes, and as such it is an effective means of uniting Muslims. It can be described as an Islamic rule for making decisions by consultation, because collective decisions are always better than those taken by individuals.<sup>2</sup>

Due to its importance, Allah stated this principle in the Holy *Qur'an* to order His Prophet Mohammed (May Peace Be Upon Him) to consult his companions in the affairs of the Muslims:

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<sup>1</sup> Abdul Khlaq, Abdulrahman, Al-Shura in The Islamic Ruling System, (Kuwait: Dar Al-Qlm, 1982), p. 14. (Arabic).

<sup>2</sup> Ibin Jubair , Mohammed, Ash-Shura “Mutual Consultation” in the Islamic System, (a lecture delivered at the National Heritage and Culture Festival, Riyadh, 23/1/2001).

And by the Mercy of Allah, you dealt with them gently. And had you been severe and harsh-hearted, they would have broken away from about you; so pass over (their faults), and ask (Allah's) Forgiveness for them; and consult them in the affairs. Then when you have taken a decision, put your trust in Allah. certainly, Allah loves those who put their trust (in Him).<sup>3</sup>

In addition, owing to the importance of the principle of Ash-Shura (mutual consultation), and in order to attract attention to it, one of the Holy *Qur'an* Surats has been named "Ash-Shura". The key word of this Surah, is "consultation" which determines the life of the Muslim. This consultation can be in private domestic affairs as between husband and wife, or in state affairs, as between rulers and ruled.<sup>4</sup>

The principle of Ash-Shura was initially introduced into the Islamic religion to describe a "new political theory"<sup>5</sup> which proposed that people have a right to participate in the decision-making process of their government, and allow them to practise their rights in providing consultations and advises to the ruler (head of state). It also creates in Muslims, the sprit of participation and cooperation.

Some Muslim scholars believe that Ash-Shura is considered to be the most important principle of the Islamic constitution, which Islamic states should be built upon.<sup>6</sup>

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<sup>3</sup>The Holy Qur'an, Surat Al-Imran, verse: 159.

<sup>4</sup>Al Shalhoob, Abdul Rahman, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, (the Farazdag Printing Press, Riyadh, first edition, 1999), pp. 100-108. (Arabic)

<sup>5</sup>Al-Hussayen, Abdulrahman, The Shura government: Its history, theory, and potential for implementation, (Ph.D. dissertation Harvard University, Law School, 1995), p.8.

<sup>6</sup>Moussalli, Ahmed, "Hassan Al-Banna's Islamist Discourse on Constitutional Rule and the Islamic State," Journal of Islamic Studies, 4:2, (1993), p. 174.



### 2.3 Implementation of Ash-Shura

The concept of Ash-Shura was implemented in the early days of Islam during the first Islamic period. The prophet Mohammed (Peace Be Upon Him) consulted the people, on matters concerning their affairs, and he would also consult men of calibre and experience on serious issues or matters within their field of specialization. He would then consider and opt for the most appropriate opinion. There are many examples in the *Sunnah* (the Prophet's tradition) confirming that the Prophet Mohammed practised the concept of Ash-Shura. Abu Hurairah said: "I have never seen anyone else who seeks consultation of his companions more than the Prophet".<sup>7</sup>

For example, in the battle of Badr, the Prophet consulted his companions regarding whether to fight or not: Speak out, O men, and give me your counsel. Also, Al-Habab bin Al-Mundhir, one of the Prophet's companions, counselled the Prophet to change the position of the Muslim army that had been chosen by the Prophet, and the Prophet agreed.<sup>8</sup>

Before the battle of Uhud the Prophet Mohammed consulted with his Companions and Muslims in Al-Madinah regarding how to face the enemy, whether they should remain in Al-Madinah and defend it from inside against the enemy or whether they should go out to meet them in the open field. The Prophet Mohammed preferred the first idea but most of the Companions, many of whom were young Muslims, preferred to go out of the city to meet their enemy. The Prophet accepted the majority opinion where upon the Muslim army went out into Uhud and were defeated.<sup>9</sup>

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<sup>7</sup>Al-Tirmidhi, Mohammed, Sunan Al-Tirmidhi, (Al-Madinah Al-Munawarah: Al-Maktabeh Al-Salafih, 1967), vol iii, p. 129.

<sup>8</sup> Al-Shalhoub the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. pp. 68–92.

<sup>9</sup> Ibid.

The successors of the Prophet Mohammed, the Righteous Caliphs strictly followed the Prophet's way and committed themselves to the principle of Ash-Shura, and it dominated almost all aspects of decision-making<sup>10</sup> in their public affairs, from the choosing of the Caliph to the timings of wars and daily life.

The court of the 4 Caliphs was always fully attended by old and young scholars, jurisprudents and companions. The Caliph Omer Bin Al-Khatab (may Allah be pleased with him) consulted them and encouraged attendances by saying that young people should not refrain from voicing their advices and opinions, since opinions are not judged according to the age of the person, but can rest with anyone young or old, as Allah pleases. The Caliph Omer always sought consultations. He even consulted women, and would adopt their opinions when he found such opinions to be right.<sup>11</sup>

Before the Prophet passed away he had given command of the army to Osama, and equipped it to fight the enemy. Some Companions advised Abu Bakr to leave the army in place. Others were of the opinion that the army should move as had been planned. With the orders of the Prophet Mohammed in mind, Caliph Abu Bakr followed the latter opinion of deploying the army. In the apostasy wars, Caliph Abu Bakr sought consultations from the Companions. Caliph Othman (may Allah be pleased with him) also sought consultation and advice from the Companions as regards the collection of the Holy *Qur'an*.

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<sup>10</sup>Al-Hussayen, The Shura government: Its history, theory, and potential for implementation, op. cit. p.286.

<sup>11</sup>Ibin Jubair, Ash-Shura "Mutual Consultation" in the Islamic System, op. cit. p.11.



After surveying the history of Ash-Shura in each era of Islamic history, Al-Hussayen concluded:

The principle of Ash-Shura continued to play a major role throughout Islamic history by taking different (forms) as time changed. No doubt, there was a change in its role, authorities, scope for application and implications, made by those who were in power to suit their own purposes, but Ash-Shura was always implemented.<sup>12</sup>

Despite the fact that the principle of Ash-Shura had become a cornerstone of Islam in the era of the Prophet Mohammed and in the era of the Righteous Caliphs, there was no Majlis or council for conducting Ash-Shura, as are seen in Islamic countries today. This is because Islam stipulates no specific methods or forms for how Ash-Shura be implemented. Therefore, the condition can be fulfilled by consultation with groups of either elected or selected people, by small or large groups, or by any Majlis, council or legislative assembly. The door has been left open for Muslims to choose and implement the kind of mechanisms for practicing the principle of Ash-Shura.<sup>13</sup>

Therefore, Ash-Shura (consultation) can differ from time to time and from place to place according to the needs of the time and place:

Consultation may take any shape or form, it may be direct or indirect, through proper representatives, selected or elected in general elections or through electoral

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<sup>12</sup>For more information about the history of Ash-Shura, see Al-Hussayen, Abdulrahman, The Shura government: Its history, theory, and potential for implementation, (Ph.D. dissertation Harvard University, Law School, 1995).

<sup>13</sup> Al Shalhoob, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. p. 233.

colleges; the consultative body may consist of a few members, or one or two Houses having a large number of members representing every section or area of the Islamic state.<sup>14</sup>

In this regard, the final issue to be discussed is whether the implementation of Ash-Shura as a principle in itself is compulsory (an enjoined duty) or a commendable deed of the Islamic ruler. Most Islamic scholars believe that Ash-Shura is an obligation placed on the Islamic ruler or the head of the state. They have reached this opinion by studying *Qur'anic* verses, the Prophet's *Sunnah*, the actions of the early Companions of the Prophet (Peace Be Upon Him) and the observations of generations of scholars and jurists who met the Companions of the Prophet Mohammed. They give as evidence the following *Qur'anic* verse:

And those who answer the call of their Lord [i.e. to believe that he is the only one Lord (Allah), and to worship none but Him Alone], and perform As-Salat (prayers), and who (conduct) their affairs by mutual consultation, and who spend of what We have bestowed on them.<sup>15</sup>

In this verse Allah, mentions Ash-Shura (consultation) immediately after the ordinance of prayers (the primary pillar of Islam), and before the ordinance of *Zakat* (the poor-due). Locating Ash-Shura between the two primary pillars of Islam i.e. establishing prayers, and paying *Zakat*, is strong evidence that it is an important principle in Islam and compulsory to the Islamic ruler.<sup>16</sup> Also, their reasoning is also supported by the

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<sup>14</sup>Rahman, Fazlur, *Islam Ideology and the Way of Life*, (London: the Muslim Schools Trust, first edition, 1980), p. 312.

<sup>15</sup>The Holy Qur'an, Surat Ash-Shura, verse: 38.

<sup>16</sup>Ibn Jubair, Ash-Shura "Mutual Consultation" in the Islamic System, op. cit. p.3.



Prophet (Peace Be Upon Him) saying: “Follow my *Sunnah*, and the *Sunnah* of the Rightly-guided Caliphs after me.”<sup>17</sup>

They also support their opinion by referring to the following *Hadiths* (the Prophet’s tradition) as providing strong evidence that Ash-Shura is obligatory:

In the first *Hadith*, Ali, the fourth Caliph (may Allah be pleased with him), reported that he said to the Prophet (Peace Be Upon Him): Oh Prophet, there are certain matters that will occur after your death, that are neither mentioned in the *Qur’an* nor discussed by you. The Prophet replied: You gather the devotees of my Muslim *Ummah* (community), and make that matter Shura (mutual consultation) between yourselves, and don’t just pass one decision. In another narration, he was reported to have said: The matter should be discussed among jurisprudents and faithful devotees, and not just by passing one decision.<sup>18</sup>

This *Hadith* is evidence as to the necessity of adherence to the principle of Ash-Shura by the ruler in matters that are neither stipulated by the *Qur’an* nor the *Sunnah*.

In the second *Hadith*, Ibn Abbass reported in a *Qur’anic* verse: “And consult them in the affairs” was revealed, the Prophet (Peace Be Upon Him) said: Allah and his Prophet can do without this. However, Allah ordained it as mercy to my Muslim *Ummah* (community). Those who seek consultations shall find the right guidance and rationality; those who don’t will find error. As right guidance and rationality are related to mutual consultations, while abandoning it is related to error.<sup>19</sup>

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<sup>17</sup> Al-Tirmidhi, Mohammed, Sunan Al-Tirmidhi, op. cit.

<sup>18</sup> Ibid.

<sup>19</sup> Ibin Jubair, Ash-Shura “Mutual Consultation” in the Islamic System, op. cit. p. 5.

In addition to these sayings of the Prophet (Peace Be Upon Him), the scholars support their view by referring to practical evidence of the Prophet seeking counsel and listen to advices from his Companions in the battles of Badr and Uhud as well as in the Khandag (trench) military campaign.

This shows that the Muslim ruler, the head of state, is legally bound to seek Ash-Shura. According to the Islamic *Sharia*, not implementing it is disobedience and a sin. Therefore, those who do not comply will be punished in the hereafter. It should neither be abolished nor given up.<sup>20</sup>

In the case of the Kingdom of Saudi Arabia, it being an Islamic State and its government being officially based on justice, Ash-Shura and equality<sup>21</sup>, the ruler (the King) is required to conduct Ash-Shura before taking any decision on important matters of the state and its people. So, the Law of the Saudi Majlis Ash-Shura clearly confirms the right of the Majlis to study laws, international treaties and agreements, and concessions before their issuance by Royal Decrees.<sup>22</sup>

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<sup>20</sup> Ibid.

<sup>21</sup> The Basic Law of government, Article 8.

<sup>22</sup> The Law of Majlis Ash-Shura, Article 18.



## 2.4 The scope of Ash-Shura

In the Holy *Qur'an*, as discussed above, Allah orders His Prophet Mohammed to consult the Muslim community: “consult them in the affairs”. However, he does not stipulate the type of affairs the ruler should consult on. It has been said that Ash-Shura (consultation) should apply to issues, serious matters and anything, which is not referred to in the text of the Holy book or the Prophet’s *Sunnah*. The scope of Ash-Shura was not determined exactly by Allah, and this allows it to be flexible and appropriate to the passing of time.<sup>23</sup> Al Khalidi is of the view that of the authorities which should be attached to the Majlis Ash-Shura in an Islamic state are the legislative authority and the power to monitor the performance of the government in all fields.<sup>24</sup> He thinks the Majlis Ash-Shura should be free to express its dissatisfaction towards the Caliph’s or ruler’s clique representatives in the region (his ministers and other assistants). This is because the Caliph’s position is different from the position of the representatives as he normally takes over after the Muslims have made the declaration of the *Bai’a* (oath), whereas his representatives are appointed by order of the Caliph.<sup>25</sup>

On the other hand, Ibin Jubair believes that the scope of the Majlis Ash-Shura is limited only to matters that are not stated in the Holy *Qur'an* or the Prophet’s *Sunnah*.<sup>26</sup>

It is not fitting for a believer, man or woman, when a matter has been decided by Allah and His Messenger, to have any option about their decision: if any one disobey Allah and His Messenger, he is indeed on a clearly wrong Path.<sup>27</sup>

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<sup>23</sup> Al Shalhoob, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. pp. 100-107.

<sup>24</sup> Al Khalidi, Mahmoud. *Al- Shura System in Islam*, (Al Risalah Modern Library. Amman, 1986), pp. 141-143.

<sup>25</sup> Ibid., p. 148.

<sup>26</sup> Ibin Jubair, Ash-Shura “Mutual Consultation” in the Islamic System, op. cit, p. 16.

<sup>27</sup> *The Holy Qur'an*, Surat Al-Ahzab, Verse: 39.

Any matter dealing with transactions, religious observances, the public relations of people or punishment, that is stipulated *by a Qur'anic* verse as lawful, legal or legitimate, or as forbidden or illegal falls out of the scope of Majlis Ash-Shura. There is no choice as regards matters enjoined by Allah or his Prophet. Hence the Majlis Ash-Shura may not cancel a solid stipulation. Neither may it issue laws that contradict the Islamic *Sharia*.<sup>28</sup>

For example, the Majlis Ash-Shura is simply not relevant regarding:

The question in deciding whether the hand of the thief must be cut off or not, or to legalize usury, or to allow alcohol, or to adopt a law which conflicts with the Islamic *Sharia*. It does not matter whether a resolution, which clashes with Islamic principles, is reached by the majority or by unanimity. The opinion of the people has no significance against the text.<sup>29</sup>

However, there will always be new development in society for which there is no guidance in the Holy *Qur'an* or the Prophet's *Sunnah*. There are however, as Bin Huamid explains:

The mechanisms of *Ijtihad* and *Istinbat* (deduction) which are designed to deal with issues that are new to the community and have not been dealt with before. There are special regulations (laws) which have been set by to organize new issues of life and cope with the developmental needs of the country, provided that

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<sup>28</sup>Ibin Jubair, Ash-Shura "Mutual Consultation" in the Islamic System, op. cit, p. 16.

<sup>29</sup> Al Shalhoob, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit, pp. 102-103.



these regulations are in complete harmony with and do not contradict or violate the texts or the wording of the Islamic *Sharia*.<sup>30</sup>

This task lies with the Majlis Ash-Shura as well as being, in some Islamic countries, within the jurisdiction of groups of jurisprudence scholars.

When the Saudi Majlis Ash-Shura is faced with this type of issue, it may refer it to the Board of the Senior *Ulama*. When a Fatwa<sup>31</sup> is issued, the Majlis Ash-Shura formulates the rules and implements laws for it.<sup>32</sup>

In short, in Islam the scope of Majlis Ash-Shura was not determined exactly, allowing the adoption of the principle of Ash-Shura in managing the affairs of the Muslims to be flexible and appropriate to the passing of time, with one condition: that the scope of Majlis Ash-Shura is limited only to matters that are not stated in the *Qur'an* or the *Sunnah*.

## **2.5 The obligation of the outcomes of Ash-Shura**

The majority of scholars believe that Ash-Shura is an important Islamic constitutional principle, and the Islamic ruler is under an obligation to apply this principle. However, they differ among themselves about whether the outcome or the result of Ash-Shura is binding or selective (not obligatory) on the Islamic ruler (head of state). Some believe that the outcome of Ash-Shura is obligatory and they support their view by referring to the importance of the place and context in which the verse regarding Ash-Shura appears in the Holy *Qur'an*. It is placed between 2 duties important to Muslims: *As-Salat*

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<sup>30</sup> An interview with the Chairman of Majlis Ash-Shura, Dr Saleh Bin Huamid, Riyadh, 15/7/2003-16/5/1424H.

<sup>31</sup> Fatwa: An Islamic legal interpretation or an opinion on Islamic doctrine by a Mufti or group of scholars.

<sup>32</sup> Ibn Jubair, Ash-Shura "Mutual Consultation" in the Islamic System, op. cit, p. 16.

(prayers) and *Zakat* (the poor-due), both of which are among Islam's "five pillars".<sup>33</sup> In this regard, Ibn Kathir has said:

Ash-Shura in the verse appears in the Holy *Qur'an* after prayer, which is one of the main pillars of Islam, and before *Zakat*. This is compelling evidence that Ash-Shura is *Wajib* (compulsory).<sup>34</sup>

However, among both early and more recent scholars there are those of the belief that the result of Ash-Shura is not binding on the Islamic ruler, he may choose from among the ideas presented to him; he is not bound to follow the advice of the majority. Furthermore, he may adopt a position different from any presented to him, if he thinks it is in the best interest of the state, citizens and the public as a whole. Abu Al-Alaa Al-Mawdudi is one Islamic scholar who holds this view:

Allah the Almighty has ordained that Muslims should conduct their affairs by mutual consultations, pursuant to the *Qur'anic* verse: (and who (conduct) their affairs by mutual consultation). Allah almighty has ordered His prophet Mohammed, the head of the Islamic state, to consult with Muslims (And consult them in the affairs). These two *Qur'anic* verses make it obligatory for the Muslim ruler to carry out Shura (mutual consultations). If he intends to conduct an affair, it requires him to seek advice, and to carry out such an affair putting his trust in Allah. However, these two *Qur'anic* verses do not provide conclusive evidence regarding the matter that is – is Ash-Shura binding or not.

He adds: I haven't found any conclusive judgment in the sayings of the Prophet in this regard.<sup>35</sup>

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<sup>33</sup> Al-Hussayen, *The Shura government: Its history, theory, and potential for implementation* Op.cit. pp. 310-315.

<sup>34</sup> Ibn Kathir, Ismail Ibn Omar, *Tafsir Al Quran Al Azim*, (Cairo: Dar Ihya Al Kutub Al Arabiyya).p.248.



Despite the differences between the Islamic scholars regarding whether the outcome of Ash-Shura is obligatory or selective (not obligatory) for the Islamic ruler, there are some practical examples in Islamic history, which agree with these two views. For example, the Prophet Mohammed consulted his Companions about the captives in the battle of Badr, and their opinions differed. Abubaker's view was to demand a ransom for them, whilst the view of the majority of the Muslims was to behead them, this being also Omar's view. The Prophet chose and adopted Abubaker's idea. This example shows that the opinion of the majority was not obligatory to the Prophet as the head of the Islamic state.

Also, in the battle of Uhud, the Prophet consulted his Companions on whether they should stay at Al-Madinah or go out to meet their enemy. The majority of Muslims suggested going out while the Prophet preferred to stay in the city. The Prophet accepted the majority opinion of the Muslims. This example shows that the Prophet on occasion adopted the opinion of the majority. The third example took place after the death of the Prophet when Abubaker decided to fight those who refused to pay zakah. Omar opposed this idea because he thought this was not a valid reason for fighting. Abubaker replied: to Omar's idea: I shall fight those who separated what the Prophet had put together. Abubaker did not follow Omar's opinion, which was that of the majority of the Prophet's Companions in this matter and fought those who refused to pay *Zakah*.<sup>36</sup>

In conclusion to this argument, it can be said that the ruler or head of an Islamic state cannot ignore the principle of Ash-Shura, and the decision reached by the Majlis Ash-

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<sup>35</sup> Al- Mawdudi, Abu Al-Alaa , Islamic government, (Jiddah: Dar Al-Sudiah for Publishing, 1984).

<sup>36</sup> Al-Shalhoub, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. p. 73.

Shura or legislative council is binding unless the ruler decides otherwise and chooses another decision which he thinks is in the best interest of the state, citizens and the public as a whole. This method does not greatly differ from the right to vote that exists in some Western countries as Al- Mawdudi said:

The head of the state is the one who is actually responsible for the affairs of the state. Nevertheless, he is not bound to adopt what the majority of Muslims agree upon. In other words, the head of state has the right to veto.<sup>37</sup>

This right to make the final decision regardless of the opinion of the Majlis Ash-Shura exists because the ruler or head of the Islamic state has many rights and responsibilities according to the Islamic *Sharia*. He is the one who has been chosen by the *Ummah* (community) and given the *Bay`a* (oath)<sup>38</sup> making him the state's representative and giving him the responsibility of supervising its interests and affairs, he has as the head of state the huge responsibility of carrying out these duties, he embodies all the authorities of the state; he may perform the task of the judiciary, legislature and executive. The most important right of the Islamic ruler is to be heard and obeyed otherwise total disorder could ensue. This is ordained by Allah:

O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you.<sup>39</sup>

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<sup>37</sup> Al- Mawdudi, Islamic government, op. cit.

<sup>38</sup> Bay`a is derived from an Arabic verb meaning exchanging money for money that is conditioned with the affirmation of and the acceptance by the seller and purchaser respectively. The analogy is that a Muslim will give obedience to the Muslim ruler, and in exchange the Muslim ruler will supervise the state interests and affairs, observe the matters of the citizens and enforce justice. Shaking hands at the end of Bay`a effects the Bay`a "pledge of allegiance" of faith, which is evidence of affirmation and acceptance.

<sup>39</sup> The Holy Quran, Surat Al-Nisa, verse: 59.



However, this great responsibility that the ruler has does not give him the special protection of the nation. He is supposed to be God-fearing, and should not take by himself any decision concerning the interests of Muslims without presenting it to experts and specialists. The Islamic ruler and those who are charged with authority, responsibility or decision-making powers owe their legitimacy and obedience to those with Allah's command; second only to the obedience of Allah and His Prophet. Moreover, the ruler's right to command has only one limitation which is valid obedience, as long as he does not attempt to legalise any action which is forbidden by Islam.<sup>40</sup>

A question may be raised here as to the extent the King is bound by the resolutions of the Saudi Majlis Ash-Shura. Is the King free to accept or reject the opinions of the Majlis' members at his discretion?

Before answering this question, there is an important point to note. The Majlis Ash-Shura of the Kingdom of Saudi Arabia has adopted the method of passing resolutions to express its opinion to the head of state (the King) regarding laws and other issues that come under its jurisdiction. This is contrary to Ash-Shura councils in other Arab countries, which present recommendations to the head of state.<sup>41</sup> According to Majlis Ash-Shura law, it has the right to issue resolutions that are supposedly binding. The former Chairman of the Ash-Shura Council, Sheikh Mohamed Bin Jubair explains the binding nature of Ash-Shura Council resolutions:

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<sup>40</sup> Al-Shalhoub, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. pp. 74-93.

<sup>41</sup> Sulaiman, Abdul Majeed, Ash-Shura in Islam and its Contemporary System in the Kingdom of Saudi Arabia, a comparative study, (Dar Al Nahdah Al Arabia, 1994), p.225. (Arabic)

Resolutions issued by the Ash-Shura Council are of two types. They are binding if their source is a sound *Sharia* text derived from the Holy *Qur'an* and the Prophet *Sunnah*, and built upon a *Sharia* judgment. This type of Majlis resolution is binding and no-one can reject its application. However, the other type of Majlis resolution is built upon *Ijtihad* (discretion), and aims to achieve the benefits of the general public, and these are advisory. In other words, the head of state (the King) has the right to apply them, or apply other options if he chooses; because if we theoretically assume that Ash-Shura Council has taken a resolution that is contrary to the Islamic *Sharia*, will this resolution be binding on the Islamic ruler? Will the ruler be obliged to carry out that resolution knowing that it explicitly contradicts Islamic rules? Such a resolution is not binding on the ruler. He must reject it. But, still the head of state is always required to seek Ash-Shura and consult the scholars, the specialists and those of enough experience.<sup>42</sup>

Ibin Jubair argued that the obligatory nature of resolutions is generally theoretical, and most parliaments do not in practice have the authority to issue binding resolutions.<sup>43</sup>

To put it briefly, the resolution of the Saudi Majlis Ash-Shura carries legal and moral weight in the Kingdom of Saudi Arabia, Therefore, the opinion adopted by the Majlis is almost always binding on the government, especially in the legislative field, unless the King chooses another judgment. This is due to the nature of the composition of the Kingdom's legislative authority, which will be discussed in detail in the following chapter.

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<sup>42</sup> Ibin Jubair, Mohamed, an interview with the Al- Jazeara newspaper 21/5/2001-28/2/1422 H p. 39.

<sup>43</sup> Ibid, p.39



## 2.6 Who are Ash-Shura people?

Islam did not make clear who should be consulted, and there are no *Qur'anic* verses or references in the *Sunnah* that specify any particular group. The Prophet consulted, infrequently, some of his Companions before making his decision. Also, after the era of the Prophet, the Muslims consulted the honest religious learned men in matters of law.<sup>44</sup>

Therefore, there are two different views concerning the interpretation of the personal pronoun in the *Qur'anic* verses. Allah says: "And consult them in the affairs"<sup>45</sup> one interpretation is that all Muslims have the right to be consulted, whereas the other opinion is that only those of good character and sound judgment have this right.<sup>46</sup>

While admitting the right of every citizen of an Islamic country to participate in Ash-Shura, there should nevertheless be some guidance given as to the qualities of Ash-Shura people i.e. who is to be consulted. Such consultees should have the knowledge, devoutness, justice, honesty and judiciousness, and those called "ahl al-hal wa al-agd (those who loose and bind. Such people can be governors, ministers, judges, religious scholars, army commanders, scientists, etc".<sup>47</sup>

Moreover, some scholars believe that Ash-Shura people should fulfil certain criteria in order to qualify to give consultations and for others to have confidence in them. Such qualifications include the following: knowledge of religion, a sense of justice, the interests and policies of the nation and wisdom.<sup>48</sup> Others have said that Ash-Shura people must have good manners and virtues. They must perform the ordinance of Islam.

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<sup>44</sup> Al-Bukhari, Mohammed, *Sahih AL-Bukhari*, The Translation of the Meaning of Sahih AL-Bukhari, by Khan, Mohammed, (Dar Al-Fiker, (no date), Volume ix), pp. 341.

<sup>45</sup> *The Holy Qur'an*, Surat Al-Imran, , verse: 159.

<sup>46</sup> Al-Hussayen, The Shura government: Its history, theory, and potential for implementation. op.cit. p.308.

<sup>47</sup> That was Al-Mawardi' opinion. Quoted in Al Shalhoob, Abdul Rahman, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit., pp. 103-104.

<sup>48</sup> Ibid.

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In addition, they must be free of any vices, sinful acts and wrongdoing. Also, they should be people who have the trust of the citizens for their faithfulness, advice, trust and eligibility. In addition, they should have experience and knowledge in the wider sense including in the fields of religion, politics, economics and the life sciences. However, it is not required for Ash-Shura people to have knowledge in all sciences and disciplines. It is sufficient for them to be knowledgeable in a branch of science such as engineering, medicine etc.<sup>49</sup> Ibin Jubair believes that it is not necessary that all the scholars or people who are consulted be able to perform *Ijtihad* (discretion), it is sufficient that some of them can perform it.<sup>50</sup>

With regard to the number of people who should be consulted, there is no guidance given in Islam. Therefore, the Islamic Majli Ash-Shura or the Legislative Council can consist of a large or small number of members; it can be made up of a selected or elected group; it can contain one House or more; it can be in any form that adheres to the Islamic *Sharia*.

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<sup>49</sup> Ibin Jubair, Ash-Shura ‘‘Mutual Consultation’’ in the Islamic System, op. cit. p.14.

<sup>50</sup> The scholar of *ijtihad* has to be qualified with knowledge of the Holy Qur’an and the Sunnah of the Prophet, the Arabic language, the tradition and custom of the early Islamic era, the aims of Islamic teaching, and a sense of wisdom and justice.



## 2.7 Conclusion

To sum up, the principle of Ash-Shura was originally introduced into the Islamic religion to describe a new method that gives the people the right to participate in the decision-making process of their government, and allow them to practise their rights in providing consultations and advises to the ruler (head of state). Thus it is an obligation for the Muslim ruler to apply this principle.

Although, as discussed in this chapter, Ash-Shura has become a main principle in the Islamic ruling system and has been implemented throughout Islamic history in different forms, there is no clear guidance as to how this principle should be implemented, its scope was not determined exactly, nor was it established whether or not the outcome of Ash-Shura is obligatory or precisely whom should be consulted. Consequently, the door has been left open for Muslims to implement the principle of Ash-Shura as they choose, and to select mechanisms that are flexible and appropriate to the passing of time in managing their affairs. Thus the Majlis Ash-Shura or Islamic Legislative Power has no one specific form, for the practise of the principle of Ash-Shura. The form of Ash-Shura that should be practised by the Majlis Ash-Shura or Islamic Legislative Council must be adaptable to reality and suitable in its modern functions, roles and methods of selecting members so as not to contradict the Islamic Sharia, and in a way that ensures the rights of the citizens while practising Islamic Shura to fit each Islamic country's political system.

The Kingdom of Saudi Arabia has been applying the principle of Ash-Shura throughout its history and it has become one of the main and essential principles upon which the system of rule in the Kingdom is based. The application of Ash-Shura has developed and become institutionalised since 1924.

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Whereas this chapter has discussed the issues essential to the understanding of the Islamic principle of Ash-Shura that has shaped the development of Saudi Majlis Ash-Shura, the next chapter draws a complete picture of the Saudi legislative authority and sheds light on the current political system of the Kingdom of Saudi Arabia.



## Chapter Three: The Saudi Political System Today

### 3.1 Introduction

The current political system in the Kingdom of Saudi Arabia is based on Islam and the implementation of the *Sharia* (Islamic Law) in all aspects of life. The fundamental law, the Basic Law of government that was adopted in 1992, declares the Kingdom as an Arabic and Islamic sovereign state. It defines the Constitution of Saudi Arabia as the Book of Allah (the *Qur'an*) and the *Sunnah* of His Prophet. The Basic Law states that the political system of the Kingdom of Saudi Arabia is a monarchy, in which the “King shall rule the nation in accordance with the Islamic *Sharia*” and that the government is based on “justice, Ash-Shura and equality” according to the Islamic *Sharia*.<sup>1</sup>

The modern Constitution (the Basic Law of government) divides the different authorities of the State into the judicial authority, the executive authority and the regulatory (legislative) authority, and gives the King, as the head of state, the final point of reference for these authorities in accordance with the Islamic *Sharia*.<sup>2</sup>

Before discussing the domestic functions and the external role of the Majlis Ash-Shura, it is necessary to provide the reader with information regarding the principles of the Saudi political system. Consequently, this chapter will focus on the executive and legislative authorities in the Kingdom of Saudi Arabia, so as to assist in the exploration of the position of the Majlis Ash-Shura as regards these authorities, as well as to provide an understanding of the relationships between the Majlis and the other authorities.

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<sup>1</sup> The Basic Law of government, published in the official Saudi Gazette (Umm Al-Qura), no 3397, dated 6/3/1992, Articles 1,5, 7,8 and 55.

<sup>2</sup> Ibid, article 44.

## 3.2 The executive authority in Saudi Arabia

The executive authority rests with the King, who has absolute authority in all affairs of the country, the Council of Ministers and local government. This section will first discuss the authority of the King and go on to explain the authority of the Council of Ministers.

### 3.2.1 The authority of the King

The Constitution has instituted the King as the head of the Islamic state of Saudi Arabia, and as such he is the final authority in each of the three branches of the State's power, executive, regulatory (legislative) and judicial.

The supreme authority vested in the head of state, the King, over all state power, mirrors the Islamic political system that is based on a centralized authority. This phenomenon not only exists in the modern state of Saudi Arabia, but also existed in the era of the Prophet Mohammed and his successors the Caliphs, where the three branches of authority, executive, legislative and judicial, were in the hands of the head of the Islamic state. However, it should not be construed that the King is subject to no form of control, his power is limited to that which is given him by Islam as was discussed in the previous chapter, and by other power centers within "the religious figures (*Ulama*) and royal family".<sup>3</sup>

In accordance with the Basic Law of government the King is chosen from amongst the sons of the founder of Saudi Arabia, King Abdulaziz, and their descendants, and the citizens shall give him the *Bay`a* (oath).<sup>4</sup> The King rules the nation according to the

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<sup>3</sup> Cordesman, Anthony H., *Saudi Arabia Enters the Twenty-First Century*, (published in co-operation with the Centre for Strategic and International Studies, Washington D.C., 2003). pp.118-119. From <http://www.csis.org/burke/saudi21>, (accessed on 11/6/2003).

<sup>4</sup> Ibid, Articles 5 and 6.



Islamic *Sharia* and supervises the implementation of the *Sharia*, the general policy of the State and the defence and protection of the country.<sup>5</sup> He embodies important authorities, chooses the Crown Prince and relieves him of his duties by a Royal Decree.<sup>6</sup> In addition, he is Commander-in-Chief of the armed forces and has the right to declare war and martial law in cases of emergency.<sup>7</sup>

The King as the head of state is the reference point for the executive and legislative authorities as well as the judiciary.<sup>8</sup> He also has ultimate power over the executive branch, and as the head of the Council of Ministers appoints the deputies of the Prime Minister and member ministers who are jointly responsible to the King for the implementation of the *Sharia*, laws and the general policy of the State.<sup>9</sup> He has the authority to supervise the Council of Ministers, ministers and other governmental bodies, in order to ensure their coordination, co-operation and harmony.<sup>10</sup>

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<sup>5</sup> Ibid, Article 55.

<sup>6</sup> The King has a number of different commands at his disposal, which reflect his various positions and powers. These commands (the Royal Order, the Royal Decree, the High Order, and the Royal Directive) as described by Al Shalhoob, Abdul Rahman in The Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative Laws, the Farazdag Printing Press, Riyadh, first edition, 1999, pp. 173-174): they are not identified by law but they have been developed by custom. These commands are: (1) The Royal Order that is a written decision in a specified form with the King's signature as the Head of State. It is issued as a personal duty of the King, rather than by procedure, which concern the constitutional institutions, e.g., appointing ministers, choosing (and if necessary dismissing) the heir apparent, and appointing ambassadors. (2) The Royal Decree which is a written decision, again in a specified form, with the King's signature as the Head of the State, but is used where the subject matter must first be proposed and approved by either Majlis Ash-Shura or the Council of Ministers. (3) The Royal Directive is the King's will which is oral and has no specific form. It is for matters which concern individual citizens, and for the various governmental institutions. The directive is issued by the Court of the Presidency of the Council of Ministers. (4) The High Order is a written command but without any specific form. It carries the signature of the King as the President of the Council of Ministers, although it can also be signed by the First or Second Deputies of the Council of Ministers in his stead. The order communicates the decision of the Council of Ministers on matters relating to the execution of government rules. It should be noted that the High Order, issued by the Court of the Presidency of the Council of Ministers and representing the decision of the Council's President is different to a Decision of the Council of Ministers which is issued by the General Secretariat of the Council of Ministers and represents the decision of the Council of Ministers as a whole.

<sup>7</sup> The Basic Law of government, Articles 60 and 61.

<sup>8</sup> Ibid, Article 44.

<sup>9</sup> Ibid, Article 57.

<sup>10</sup> The Council of Ministers Law, Article 29.



### 3.2.2 The authority of the Council of Ministers

The Council of Ministers was established in 1953 by King Abdulaziz to assist the King in the development of the country. The authority of the Council of Ministers has changed since its establishment; the current law was enacted in 1993 in order to coincide with the Basic Law of government and the Law of Majlis Ash-Shura of 1992 and to complete the constitutional development of the Kingdom. The new law states that the Council of Ministers is headed by the Prime Minister, who is the King<sup>11</sup> and consists of the First Deputy Prime Minister, the Second Deputy Prime Minister, and ministers with portfolios and ministers of state. Majority voting is the norm in the Council of Ministers and in the case of a tie the session's President has the casting vote.<sup>12</sup>

According to this law, the Council has a legislative authority and the right to review the resolutions of Majlis Ash-Shura as well as the executive authority. It has full authority over the state's affairs; it is responsible for formulating and executing the internal and external, financial, economic, education and defence policies and all the public affairs of the Saudi state as well as overseeing the implementation of these policies. It has executive power, and it is the point of reference and the final authority for the state's financial and administrative affairs in all the ministries and other governmental departments and agencies.<sup>13</sup> More importantly, the national budget and any increase in the budget are to be approved by the Council of Ministers. However, the resolutions of the Council are not final until the King approves them.<sup>14</sup>

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<sup>11</sup> The Council of Ministers Law, Article 1.

<sup>12</sup> Ibid, Article 14.

<sup>13</sup> Ibid, Article, 19.

<sup>14</sup> Ibid, Article, 7.



In order to carry out its duties, the Council of Ministers has the power to establish committees to investigate the progress of the work of ministries and other governmental institutions, or any other particular issues.<sup>15</sup> Therefore, there are different higher councils and ministerial committees that deal with particular issues that fall within the Council of Ministers' remit for laying down the policy of the state.

### 3.2.3 Local government

The executive branch includes local government. According to the Regional Law of 1992, the aim of local government is to improve the standard of the administrative work and development in the regions. It is also responsible for maintaining security and order, and guaranteeing citizens' rights and freedoms within the framework of the *Sharia*.<sup>16</sup> The Saudi state is divided into 13 regions or provinces, and the Regional Law regulates the structure and organization of regional administration, and defines the authority and duty of the *Amir* (Governor). In 1993, King Fahd established a council in each of the 13 regions and appointed 210 members to the Regional Councils. Each council studies and deliberates on the needs of their own regions, improves the standard of regional services, proposes future development plans and suggests their endorsement in the national annual budget, and monitors ongoing projects in the region.<sup>17</sup> However, the role of the Regional Councils is merely advisory and does not include the issuing of binding decisions; their role is supervisory in nature.

In an effort to enhance the participation of citizens in local government decision-making, the Council of Ministers declared in October 2003 the intention to establish Municipal Councils in different regions of Saudi Arabia.<sup>18</sup> These Municipal Councils

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<sup>15</sup> Ibid, Article 24.

<sup>16</sup> The Regional Law of 1992, Article 1.

<sup>17</sup> Ibid, Article 22 and 23.

<sup>18</sup> The Resolution of the Council of Ministers, no 224, 13/10/2003 -17/8/1424 H.

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will be the first semi elected bodies in Saudi Arabia where half of the members of the Council will be elected and the other half will be appointed by the Ministry of Municipality and Rural Affairs. The first election<sup>19</sup> was due to be held at the beginning of January 2005<sup>20</sup> in the district of Riyadh. The establishment of these Municipal Councils is considered to be a significant step and marks a turning a way from the traditional ways of government in Saudi Arabia, and as such they might open the gate for public participation in other important institutions in the country.

The primary function of the Municipal Councils is to support the regional municipalities in planning and in developing the regions. They enjoy financial and administrative authority as well as a financial supervisory role over the municipalities. In addition, these Councils work together with the Local Councils in promoting public services and the development of the regions.

### **3.3 The legislative authority**

The legislative branch of government occupies an important position in Islam. Each Islamic state has the right to establish a legislature in accordance with the principle of Ash-Shura as prescribed by the *Qur'an* and *Sunnah*, and according to its needs and conditions as discussed in the previous chapter.

The Basic Law of government has defined the legislative authority as the one that lays down laws and regulations that bring benefit, or prevent or remove harm, in accordance with the Islamic *Sharia*.<sup>21</sup> It is worth noting that the Basic Law of government uses the term regulatory authority rather than legislative authority and regulation rather than law.

Abdul Jawad justifies this use of terminology:

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<sup>19</sup> The full text of the Municipal Councils election by-law is set out in Appendix B of the thesis.

<sup>20</sup> A ctual polling date was February 9.

<sup>21</sup> The Basic Law of government, article, 67.



The Kingdom of Saudi Arabia's use of the term "regulation" instead of "law" is to avoid the use of the latter term as it is man-made and imported from the outside, because the man-made laws resulted in the non-application of the Islamic *Sharia* in some Islamic Countries and the limitation of applying the Islamic *Sharia* in personal affairs.<sup>22</sup>

The former *Mufti* <sup>23</sup> of Saudi Arabia, Sheikh Abdul Aziz bin Baz, believes that it has been a custom in the Kingdom to avoid using the terms legislative authority and law, but as he maintains, these are just terminologies and there is no harm if they are used.<sup>24</sup> The Chairman of the Saudi Majlis Ash-Shura and member of the Board of Senior *Ulama*, Sheikh Saleh Bin Humaid, supports this view and emphasises that although the Islamic *Sharia* is the first and primary source of legislation in the Kingdom of Saudi Arabia, laws regarding new issues or developmental needs in the country can be implemented through *Ijtihad* and *Istinbat*' (deduction).<sup>25</sup> Saudi Arabia can therefore adopt Western laws, where appropriate, as long as they do not conflict with any of the Islamic principles.

The legislative (or regulatory) authority practises its power according to the Basic Law of government and the laws of the two Councils: Ash-Shura and Ministers. In discussing the authority of the legislative power, one can conclude that the legislative authority in Saudi Arabia is not the responsibility of a single board or man. Rather, it is a shared authority in which the Majlis Ash-Shura and the Council of Ministers

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<sup>22</sup> Abdul Jawad, Mohammed, The Legislative Development in the Kingdom of Saudi Arabia, (Cairo University, 1977), p. 23.

<sup>23</sup> Mufti: Religious Jurist who is qualified to issue fatwa, or to interpret the Islamic law.

<sup>24</sup> That was Sheikh Abdul Aziz bin Baz' opinion. Quoted in Al Shalhoob, Abdul Rahman, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit., p. 216.

<sup>25</sup> An interview with the Chairman of Majlis Ash-Shura, Dr Saleh Bin Huamid, Riyadh, 15/7/2003-16/5/1424H.

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participate along with the King, as he is the reference point for all the authorities of the state and the possessor of the final authority in the area of legislation.<sup>26</sup>

### **3.3.1 The Majlis Ash-Shura**

The Majlis represents a key legislative institution of the legislative authority in the Kingdom of Saudi Arabia. The Law of the Majlis, issued in 1992, reflects to a great extent the concept of Islamic Ash-Shura (consultation), which has long been practised by Saudi rulers. Al Shalhoob believes that the Saudi state has been able to:

translate the Islamic and Arabic constitutional principles and traditions into written laws; the Majlis Ash-Shura Law is a major example of these kinds of laws. This was the first step taken towards formalizing the long-established Islamic system of popular consultation, which has always been practised by Saudi rulers.<sup>27</sup>

The first Saudi Majlis was established in 1924 and was called the Majlis Al-Ahli (the Domestic Council). It remained the main legislative body until the creation of the Council of Ministers in 1953, which led to a decline in the importance of its role until King Fahd modernized the Majlis' system in 1992.

The responsibilities of the Council include proposing and approving new laws, discussing domestic and international issues and all other matters of public interest. It raises its resolutions and recommendations directly to the King. Dekmejian believes the Majlis in carrying its responsibilities is in a "potentially competitive position" with the Council of Ministers. He thinks the potential for conflict is "implicit in Articles 56, 67 and 69 of the Basic Law of Government, and Articles 17, 22 and 24 of the Majlis Law.

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<sup>26</sup> The Basic Law of government, Articles 44 and 70.

<sup>27</sup> Al Shalhoob, Abdul Rahman, *The Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative Laws*, op. cit., p. 241.



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which maintain that the Council of Ministers and the Majlis should perform jointly their advisory and legislative functions”.<sup>28</sup>

The participation of the King, the Council of Ministers and the Majlis Ash-Shura in the functions of the legislative authority raises the following question: What is the nature of the participation of the King and the Council of Ministers with the Majlis Ash-Shura in the functions of the legislative authority?

In the following pages, the legislative functions of the King and the Council of Ministers will be explored in order to know the position of the Majlis Ash-Shura in the legislative authority and its relationship with the King and the Council of Ministers. The functions of Majlis Ash-Shura and the role it plays will be discussed in detail in Chapters Four, Five and Six of this thesis.

### **3.3.2 The King's legislative function**

Throughout the history of Saudi Arabia the King has had a major and independent rule-making function. He has this right due to the fact that, as the head of state, according to the Islamic *Sharia* he has control over all state functions, including setting the legislation for society as a whole. The Basic Law establishes the King as the supreme authority over all the other state authorities.

King Abdul Aziz, individually, and with the help of the *Ulama* (religious scholars), performed this legislative function from the beginning of the establishment of the state of Saudi Arabia. However, after he took control of the Hijaz region in 1924 and formed

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<sup>28</sup> Dekmejian, Harir, “Saudi Arabia's Consultative Council”, The Middle East Journal, Vol 52, no. 2 (Spring 1998), pp. 204-218.

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the Majlis Ash-Shura, the legislative authority came to be distributed between the King and the Majlis Ash-Shura.

Abdul Jawad is of the view that the function of Majlis Ash-Shura during the reign of King Abdul Aziz, especially between 1924 and 1932 was effective. He believes that the performance of the Majlis, despite the limited number of its members and the lack of facilities and resources, performed its responsibilities accurately and correctly in no less a way than the most established legislative parliamentary councils.<sup>29</sup>

In spite of the effective role played by the Majlis, especially in the area of regulations, its role began to decline in importance after the establishment of the Council of Deputies, which was chaired by Prince Faisal bin Abdulaziz (later to become King). The Majlis continued to practise its limited authority in the area of legislation until the decline in its role, which coincided, with the formation of the first Council of Ministers in the Kingdom in 1953. Throughout this time, the King remained the authority of last resort in all issues owing to the fact that the Kingdom was in the process of being established and was surrounded by many dangers and threats.<sup>30</sup>

Currently, the King performs an important legislative function, since the Basic Law of government (1992) gave him increased powers in this area. On the one hand, he is the Head of the Council of Ministers that performs the main legislative function and is also, as the head of state, the possessor of the final legislative authority in Saudi Arabia. This

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<sup>29</sup> Abdul Jawad, Mohammed, *The Legislative Development in the Kingdom of Saudi Arabia*, op. cit.p. 100.

<sup>30</sup> Ibid.



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is because all laws, by-laws, international treaties and agreements, can only be issued or amended after they gain the approval of the King and are enacted by a Royal Decree.<sup>31</sup>

The King, as head of state, has the right to appoint the Chairman and members of Majlis Ash-Shura, to dissolve and re-form the Majlis, and to call for a general convening of the Majlis Ash-Shura with the Council of Ministers.<sup>32</sup> Moreover, the resolutions taken by the Majlis Ash-Shura are referred to the King who decides which of them should be issued and which of them referred to the Council of Ministers. If the views of the two Councils agree, the resolutions after being approved by the King, are issued in the form of Royal Decrees. In the case of a disagreement between the views of the two councils, the issue is sent back to the Majlis Ash-Shura for reconsideration and then raised to the King for his decision.<sup>33</sup>

From the above discussion, one can see that the King plays a primary role in the legislative process together with the two Councils: Ash-Shura and the Ministers. In addition, he can also introduce laws and regulations independently by issuing a Royal Decree. Examples that show the legislative function of the King are the issuance of the Basic Law of government, the Law of Majlis Ash-Shura, and the Law of the Council of Ministers and the Law of Regions. However, when the King relies on his inherent authority to legislate, his legislative acts must comply with the text of the *Qura`n* and the *Sunnah*, adhere to the principle of Ash-Shura and provide for the public interest and result in benefits, or prevent or remove harm, in accordance with the Islamic *Sharia*.

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<sup>31</sup> Al-Taweel, Mohamed, (et al), General Administration in the Kingdom of Saudi Arabia, (Institute of Public Administration, Riyadh, 1995), p.45.

<sup>32</sup> The Basic Law of government, Articles 56-58.

<sup>33</sup> The Law of Majlis Ash-Shura, Article, 17 after amendment.

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Although the King carries out the primary legislative function, this research illustrates that the Majlis Ash-Shura contributes to a great extent to the process of legislation. This is evidenced by the fact that most of the decisions taken by the King since the establishment of the Majlis have been based on consultation with the Majlis Ash-Shura (this argument will be discussed in detail in Chapter Five). Moreover, the Law of the Majlis stipulates that no law should be issued unless it is considered, studied and then approved by the Majlis Ash-Shura within the general context of the Islamic *Sharia*.

A former Chairman of the Majlis Ash-Shura, Sheikh Mohamed Ibin Jubair thinks the nature of the relationship between the King and the Majlis Ash-Shura is based upon the Islamic Shura Principles:

In theory, any parliament in the world can give the head of state the right to perform his authorities without consulting the parliament. But we, in Saudi Arabia who apply the Islamic Shura, are not allowed to abandon the principle of Ash-Shura (consultation), and ask the ruler or the head of the state to practise his role according to his will; he, however, should consult his people, because Allah ordered His Prophet (Peace Be Upon Him) to consult the Muslims by saying: and consult them in the affairs. This order is directed to the Prophet, who was supported by revelations from Allah, and should apply to the ruler who must follow his steps.<sup>34</sup>

In summary, it can be said that the King plays a major role in the legislative process and has the final legislative authority in the Kingdom of Saudi Arabia.

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<sup>34</sup> Al Moslimoon, a weekly magazine, an interview with Sheikh Mohamed Ibin Jubair, former Chairman of the Majlis Ash-Shura, 2/11/1997-2/7/1418H, p. 7.



### **3.3.3 The Council of Ministers' legislative function**

The formation of the Council of Ministers in 1953 gave rise to the participation of the Council along with the Majlis Ash-Shura in the legislative process. At the same time, moreover, some of the legislative authorities were withdrawn from the Majlis. The issuance of the Regulation of the Council of Ministers in 1954 withdrew the entire legislative authority from the Majlis Ash-Shura and confined it to the Council of Ministers by stating for the first time that the Council of Ministers shall possess the legislative, the executive and the administrative authorities.<sup>35</sup>

Despite the legal existence of the Majlis Ash-Shura during the period of the second Council of Ministers, the Council of Ministers was the only institution that possessed legislative and executive authority.

However, since the issuance of the Basic law of government and the two new laws of the Council of Ministers and the Majlis Ash-Shura in 1992, the legislative authority has been shared mainly between the two institutions and the King. Although the modern Majlis was given a legislative function as stated in its Law the Council of Ministers retains its important legislative function. The Council of Ministers is charged with the study of laws, by-laws, international treaties, agreements and concessions, and with issuing resolutions regarding them. However, its resolutions are not binding unless approved by Royal Decree. The new law has given the Council of Ministers the responsibility of forming the external and internal, financial, economic, education and defence policies, and all general affairs. It was also given the right to review the resolutions made by the Majlis Ash-Shura. According to the new Law of the Council of Ministers every minister has the right to propose a law or by-law that relates to his

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<sup>35</sup> The Law of the Council of Ministers, 1954, Article 18.

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ministry, and every member of the Council has the right to propose any subject he sees as beneficial to be discussed by the Council, after the approval of the Prime Minister.

From the above discussion, it becomes clear that in addition to the Majlis Ash-Shura there is another legislative authority in the Kingdom of Saudi Arabia, which is the Council of Ministers as it has the power to legislate. The Council of Ministers practises this authority in its capacity as the higher authority in the government and because it is headed by the King.

Having looked at the important legislative role played by the Council of Ministers, a question arises regarding the role played by the Majlis Ash-Shura in legislative authority: Is the legislative role of Majlis Ash-Shura simply a marginal role, or is it an important role played by a partner of the Council of Ministers?

One view is that the Majlis Ash-Shura plays its role in the legislative authority as an equal partner of the Council of Ministers. The other view is that it plays an independent legislative role, which reflects the nature of the composition of the legislative authority in the Kingdom, which consists of two separate aspects: the Council of Ministers and the Majlis Ash-Shura. If the Majlis does not agree with the Council of Ministers the final word rests with the King.<sup>36</sup>

The researcher agrees with the former view, in that the role played by the Majlis Ash-Shura in the legislative process is as a partner since the Council of Ministers does not have the power to legislate; it can only recommend approval of a law by the King after it has been studied by the Majlis, and likewise the Majlis can only recommend approval

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<sup>36</sup> That was Chairman of Majlis Ash-Shura' opinion. Quoted in an interview with News Week magazine, December 2002. The interview was translated and printed in Al Watan newspaper in 12/1/2003-9/11/1423, p. 24.



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of a law after it has been reviewed by the Council of Ministers. The participation of the two Councils is a prerequisite for the issuance of legislation. The researcher further believes that the amendments made by the King to Articles 17 and 23 of the Law of Majlis Ash-Shura, in December 2003, granted the Majlis a new legislative authority that enables it to propose new laws and amend current ones and to refer them directly to the King. Moreover, these amendments augmented the position of the Majlis in the legislative process in the Kingdom. They also give its resolutions a power that was not present before and makes them equal in power to the resolutions of the Council of Ministers.<sup>37</sup>

From the above discussion it can be seen that the King, the Council of Ministers and the Majlis Ash-Shura share in the legislative process in the Kingdom of Saudi Arabia.

Finally, it should be emphasized here that the *Ulama* (religious scholars) in Saudi Arabia and especially the Board of Senior *Ulama* play an important role in the legislative field and this is discussed in the following section.

### **3.4 The *Ulama*'s legislative role**

The Islamic *Sharia* (the *Qur'an*, *Sunnah*, and *Ijtihad*) is the main source of legislation in the Kingdom of Saudi Arabia. The revelation of the Holy *Qu'ran* was completed fourteen centuries ago, as likewise were the texts of the Prophetic *Sunnah*, which confirmed the legislation of *Ijtihad*. *Ijtihad* generates rules and laws from the main Islamic sources and is mainly used to make legislation for issues and matters that are not mentioned or discussed in the *Qur'an* or the *Sunnah*.

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<sup>37</sup> The amendment made by the King to Articles 17 and 23 of the Law of Majlis Ash-Shura will be discussed in more detail in Chapter Five.

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The *Ulama*, through the Board of Senior *Ulama* and the administration of Ifta. exercise an important role in legislation through *Ijtihad*. It should be emphasised here that the *Ulama* participate in the consultation process regarding certain types of legislation, but not as part of the legislative authority.

One of the academics interviewed during the course of this research argues that the *Ulama* play an important role in the Kingdom of Saudi Arabia:

The modern Saudi state is based on an Islamic foundation, incorporated by Imam Mohamed Bin Saud and Sheikh Mohamed Bin Abdul Wahab. What indicates the importance of the *Ulama*'s role is their close relationship with the ruler, the high appreciation they have from the ruler, and the consideration given to their views. The religious *Ulama* also play an important role in controlling the legislative authority as regards the non-contradiction of the legislation passed by this authority with the Islamic *Sharia*.<sup>38</sup>

When the King, the Majlis Ash-Shura or the Council of Ministers face complicated problems or new issues that require accurate *Sharia* views, they may seek the opinion of the Board of Senior *Ulama* or the Mufti of the Kingdom before passing laws and regulations on such issues. They may call on specialized *Ulama* from the Ministry of Justice, the Higher Judiciary Council or from the Ministry of Islamic Affairs, to give their views regarding the topics under discussion.

An indication of the importance of the legislative role played by the *Ulama* can be seen by the examples given by Al Shalhoob. The most outstanding of these was the adoption by the King of the resolution passed by the Board of Senior *Ulama* regarding the

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<sup>38</sup> An interview with Dr Mohamed Al Jarba, Riyadh, 15 / 6 / 2003.



application of capital punishment (the death penalty) to drug traffickers where it is a second offence and all the evidence has been examined by the *Sharia* court and the Higher Judicial Council.<sup>39</sup> Another example that indicates the importance of the role played by the *Ulama* in reaching important decisions is where the views of Prince Faisal and King Saud differed greatly. On this occasion, owing to the King's poor state of health, the *Ulama* issued a *Fatwa*<sup>40</sup> granting Prince Faisal all the authority of the King. Following this *Fatwa*, the royal family, the Majlis Ash-Shura and the Council of Ministers took the decision to swear the Crown Prince in as King.<sup>41</sup>

It can be said that the relationship of the Majlis to the *Ulama* is based on the need of the Majlis to secure accurate *Sharia* views and the opinion of the *Ulama* regarding new issues that require law-setting. Therefore, the Majlis may refer the issue to the Board of the Senior *Ulama* when the Majlis receives the opinion of the *Ulama* or a *Fatwa* formulates the required legislation.

It became apparent to the researcher, during his study of the Majlis Ash-Shura, that when making resolutions or initiating law proposals it has, at times, depended upon the decisions of the Board of Senior *Ulama* for guidance. One of the most obvious examples of this is the approval of the Majlis of the Co-operative Medical Health Insurance Law (medical insurance) regarding non-Saudis, which was presented by the government. The Majlis Ash-Shura relied on the approval of the Board of Senior *Ulama* when passing the resolution to establish a co-operative health insurance system and issuing decision number 51 dated 24/3/1977-4/4/1397H, which admits the permissibility of the co-operative insurance system.<sup>42</sup>

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<sup>39</sup> Al Shalhoob, op. cit., pp. 223-229.

<sup>40</sup> *Fatwa*: An Islamic legal interpretation.

<sup>41</sup> Al Shalhoob, op. cit., pp. 223-229.

<sup>42</sup> The Majlis Ash-Shura's resolutions archive: resolution no: 27/43/17 issued on 27/2/1997-20/10/1417H.

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The Majlis also relied upon the opinion of the Board of Senior *Ulama* that it is permissible to use astrological observatories to assist in the viewing of the moon during the first days of the Hegira (lunar) months, in order to decide on which days the month of Ramadan begins and ends, the day of Arafat for *Hajj* (the pilgrimage to Makkah), and the fasting of Ashura'. The Majlis Ash-Shura also relied on the views of the Higher Judiciary Council in this regard.<sup>43</sup>

From the above examples, we can see that the *Ulama* in the Kingdom of Saudi Arabia, whether as individuals or sitting on boards or working in groups have the right to vet legislation through *Ijtihad* and *Fatwa*. Moreover, they exercise an important role in controlling the non-contradiction of legislation adopted by the legislative authority with the Islamic *Sharia*.

### 3.5 Conclusion

This chapter has provided a necessary introduction whereby it has been clarified that the foundation of the current political system in the Kingdom of Saudi Arabia is formally based on Islamic principles and the implementation of Islamic *Sharia* (Law) in all aspects of life. It has been shown that these Islamic principles are reflected in the country's Constitution (the Basic Law of government). The Basic Law defines the political system of the Kingdom of Saudi Arabia as a monarchy, where the King rules the nation in accordance with the Islamic *Sharia*, and the system of government is based on justice, Ash-Shura and equality according to the Islamic *Sharia*.

The main state authorities have been identified as the executive authority and the legislative authority. It has been explained that the executive authority consists of the

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<sup>43</sup> Ibid, the Islamic Committee Affair's Report no. 8 on 19/5/1997-12/1/1418 H.



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King, the Council of Ministers and local government. The developments that have occurred at the local government level where the Saudi government has recently taken measures to enhance the participation of citizens in the local government decision-making process through the establishment of semi elected Municipal Councils in different regions of Saudi Arabia has been highlighted. This significant step marks a turning away from the traditional ways of governing in Saudi Arabia, and may open the gate for public participation in other important institutions in country.

This chapter has also identified the legislative authority, and examined its nature and composition in order to know the position of the Majlis Ash-Shura in this authority and its relationship with the King and the Council of Ministers. To do this the legislative functions of the King and the Council of Ministers has been explored and the important role played by the *Ulama* (religious scholars) in the legislative process through *Ijtihad* highlighted.

In summary, this chapter is intended to serve as a background to the following three chapters, which look at the historical development of the Majlis Ash-Shura in Saudi Arabia and discuss its domestic functions and the role it plays in external affairs.

## Chapter Four: The Historical Development of the Majlis Ash-Shura in the Kingdom of Saudi Arabia

### 4.1 Introduction

The aim of this chapter is to trace the steps in the development of Majlis Ash-Shura in Saudi Arabia, in order to give a clear picture of the experience and the role of Majlis Ash-Shura in the Kingdom today.

### 4.2 Ash-Shura in the first and second Saudi States

The history of the adoption of the principle of Ash-Shura in the Kingdom of Saudi Arabia can be traced back more than two centuries, to when the first Saudi State (1744–1818) came into being after an alliance was formed between Imam Mohammed bin Saud, the ruler of the small principality Diriyah, and Mohammed bin Abdulwahhab, a religious reformer, to rid the Arabian Peninsula of idols and non-Islamic practices and to preach the true teaching of Islam.<sup>1</sup> As a result of this alliance, the two men consulted men of knowledge during times of war, and called on temporary advisory councils to assist the *Imam* (leader).<sup>2</sup>

In the second Saudi State (1840–91) the practice of Ash-Shura continued in a simple form. The rulers had almost daily interaction with the *Ulama* (religious scholars), tribal leaders and local people, and during these meetings the ruler sometimes held a Shura session. As a result, these people became involved in the general affairs of the state and participated in the decision-making process.<sup>3</sup>

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<sup>1</sup>Al Shalhoob, Abdul Rahman, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, ( the Farazdag Printing Press, Riyadh, first edition, 1999), p.103.

<sup>2</sup>Faisal Ibn Mishal Al-Saud, Islamic Political Development in the Kingdom of Saudi Arabia, Majlis Ash-Shura: Concept, Theory and Practice, (published by the National Association of Muslim American Women Inc, Sarawat, Washington DC, 2002), p.86.

<sup>3</sup>Al-Hussayen, Abdulrahman, The Shura government: Its History, Theory, and Potential for Implementation, (Ph.D. dissertation Harvard University, Law School, 1995), p.246.



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One Saudi historian described the way Shura was conducted at that time as follows: “When something of importance occupied the ruler’s (Saud Ibn Abdulaziz 1803–1814) attention or he wanted to implement an idea, he would send for his associates among the tribal leaders and consult with them. Then he would summon his associates and those whose opinions he valued from among the residents of Dariya”.<sup>4</sup>

Al-Hussayen<sup>5</sup> believes that the Shura in the first and second Saudi States failed to evolve to become a formal, permanent council, instead it remained as an optional institution, and its conclusions were not binding. He thinks that the Shura was implemented in a primitive way through an informal method of combining indirect or representative Shura with direct Shura. “This method,” he writes, “ continued to exist up to the third Saudi State and, I believe, is still one of the unique features of the Saudi regime”.

Al-Hussayen<sup>6</sup> attributed the failure to establish a more effective Shura mechanism in the first two periods of the Saudi State to three main causes:

- (1) The brevity of these periods. The first lasted less than eighty years (1744–1818) and the second approximately fifty years (1840–91).
- (2) Instability in the Arabian Peninsula. As a result of this, the main objective of the rulers during the two periods was the unification and centralization of the Arabian Peninsula under a single authority.

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<sup>4</sup>Othman Ibn Bishir, Title of Glory in the History of Najd, (published by the Ministry of Education of Saudi Arabia, Beirut, 1967), p.164. (Arabic).

<sup>5</sup>Al-Hussayen. op. cit, p.246.

<sup>6</sup> Ibid, p.246.

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(3) The isolation of the Saudi state during its first two periods. The state did not interact with the Ottoman Empire or the newly emerging Western nations and so did not benefit from their experience. This isolation left the state and its government a primitive entity.<sup>7</sup>

### **4.3 The applications of Ash-Shura in the third Saudi State**

During this period the state started to establish regular contact with the outside world, Muslim and non-Muslim, and become aware of the Shura experience in neighbouring countries.

Also, the applications of Ash-Shura in Saudi Arabia advanced and became institutionalised, especially after King Abdulaziz annexed the Hijaz area in 1924 and established the first official Majlis for consultation, called Majlis Al-Ahli (the Domestic Council), even before the country became fully unified and officially known as the Kingdom of Saudi Arabia in 1932.

Recognizing the value of the education and experience of the local people of Makkh and the system of government that existed in the Hijaz,<sup>8</sup> King Abdulaziz took the first steps towards establishing the first official Majlis Ash-Shura. In an important political address issued at the time he took Makkah, he said:

We shall leave the rule in this Holy City (Makkah), after consultation among the Muslims in all parts of the world to send their delegations to convene an Islamic conference that shall determine the form of government they desire for the implementation of Allah's rules in this pure city. The

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<sup>7</sup> Ibid, p.249.

<sup>8</sup> Huyette, Summer, Political Adaptation in Saudi Arabia, A Study of the Council of Ministers, (London: Westview Press, 1985), p.53.



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source of legislation and rules shall be but from the book of Allah and the *Sunnah* of the Prophet and from what the *Ulama* (scholars) agreed upon whether by consensus or by analogy.<sup>9</sup>

Then King Abdulaziz asked to meet the *Ulama* and influential people of Makkah to discuss the best way of managing Al-Hijaz. King Abdulaziz explained to them that since the people of Makkah themselves were the most knowledgeable in matters relating to their city, they were the best qualified to manage the region's affairs. He called for the establishment of a nomination board to include *Ulama*, notables and merchants whose task it would be to select the members of the first Majlis Ash-Shura. At the King's suggestion, the notables held a meeting and agreed on electing the (thirteen) members of the new council that would be named the Majlis Al-Ahli (the Domestic Council), which was to be responsible for the internal affairs of Makkah. This Council was chaired by Sheikh Abdul Qadir Al-Shibi.<sup>10</sup> After six months this council was dissolved by King Abdulaziz, prior to him reorganizing it so as to better represent the different people of Makkah and expand the range of participation. The new Council consisted of fifteen members, twelve of whom were elected and three appointed: two members represented the *Ulama*, one represented the merchants, and nine represented various parts of the city. To these the King added three appointed members. The Chairman and his deputy were elected by means of a secret ballot.<sup>11</sup> The main responsibilities of this Council were: to organize the municipality and health affairs, to organize the *Sharia* court system, to investigate issues relating to endowments, to organize internal security and the police, to spread religious education and literacy, to develop the means of trade and communication, and to establish a permanent committee

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<sup>9</sup> Saaty, Amin, The consultation in the Kingdom of Saudi Arabia; from King Abdulaziz to King Fahd bin Abdulaziz, (Cairo: The Saudi Centre for Strategic Studies, First Edition, 1992), pp.34-44.

<sup>10</sup> Umm Al-Qura Gazette, (the official Gazette of the Saudi government), Issue 3, dated 23.1.1925.

<sup>11</sup> Umm Al-Qura Gazette, Issue 32, dated 8/8/1925.



to solve internal problems.<sup>12</sup> The Majlis Al-Ahli was responsible primarily for matters of an executive nature rather than participation in the process of legislation.

#### **4.3.1 The general Majlis Ash-Shura and local councils**

The next major step in the development of the Majlis Ash-Shura came in 1926 when King Abdulaziz became the King of Al-Hijaz and issued the first constitution of the Al-Hijaz Kingdom, entitled the “Basic Instructions of Al-Hijaz”. Summer<sup>13</sup> believes that these Instructions provided for “autonomous” institutions modelled on the existing ones in Makkah. The second article of this constitution stated: “The Arab Hijazi State is monarchical, consultative, Islamic ...”<sup>14</sup> The fourth article called for the establishment of several councils, among them the Shura Council.

According to Al-Zahrani,<sup>15</sup> after King Abdulaziz appointed Prince Faisal bin Abdulaziz as his viceroy in the Al-Hijaz area, a consultative council of three members was appointed by the King to assist the Prince. The King then ordered the establishment of the General Majlis Ash-Shura<sup>16</sup> along with five local advisory councils for the cities of Makkah, Medinah, Jeddah, Yanbu and Taif. The King’s order specified that these councils should be formed through elections and that scholars, merchants, notables, professionals and heads of vocations had the right to vote and elect members to the council. Elected members were to serve on those councils for one year only. The local councils would then in turn elect the members of the General Council.

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<sup>12</sup>Hamzah, Fouad, The Saudi Arabia Land, (the Al-Nasr Modern bookstore, Riyadh, 1968), p.101. (Arabic).

<sup>13</sup> Summer, Political Adaptation in Saudi Arabia, A Study of the Council of Ministers, op.cit. p.54.

<sup>14</sup>Umm Al-Qura Gazette, issue 90 and 91, dated 25/2/1345–3/9/1926 and 10/9/1926.

<sup>15</sup> Al-Zahrani, Abdul Rahman. The Progress of Majlis Ash-Shura in the Kingdom of Saudi Arabia, (Riyadh, Majlis Ash-Shura, 2002), p.19.

<sup>16</sup> A royal decree was issued on 1925/12-11-1344H appointing Sheriff Sharaf Adnan as the Chairman. of the General Majlis Ash-Shura.



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Unfortunately, because of circumstances prevailing at that time, including a lack of resources and of educated people, local councils could not be established. But despite the councils not coming into existence, this provided a foundation for the Provinces Councils, which now exist in Saudi Arabia.

#### **4.3.2 The Shura Council of 1926**

The Shura Council was chaired by Prince Faisal, Viceroy of Al-Hijaz. It included his advisers, and six members appointed by the King: Sharaf Adnan, Abdullah Al-Shibi, Husain Bazalamh, Majid Kurdi, Abdulrahman Al-Zawawy and Abdulwahhab Attar. Later, King Abdulaziz added two more members, Sharf Al-Sharif and Mohammed Abualkhair.<sup>17</sup> Its jurisdiction was to examine everything that was submitted to it by the Viceroy. After ten months the King dissolved the Council as a result of the recommendations of the Committee for Inspection and Reform, and a new Shura Council was formed. This new council is officially regarded as the first Shura Council founded in Saudi Arabia. The Majlis consisted of eight full-time members under the chairmanship of the King's Viceroy. As regards the members: "first, four members were chosen by the government after consulting those of wisdom and experience. The other four were appointed by the government; two of these should be from Najd."<sup>18</sup> This was the first time that people from Najd had become members of the Shura Council. Perhaps this reform was undertaken to expand participation in decision-making and to make the council function for the whole state, not just the Al-Hijaz Kingdom. Also, it may have been part of King Abdulaziz's efforts to unify the Kingdom of Hijaz and the Sultanate of Najd so as to create one state.

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<sup>17</sup> Hamzah, Fouad, The Saudi Arabian Land, op.cit.p.102

<sup>18</sup> The Law of Majlis Ash-Shura, Articles 1, 2 and 3 of, 1927/1346H.

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Membership of the Majlis was for two years, and half of the members were to be replaced annually. A Majlis member was required to be not less than twenty-five years of age, to be knowledgeable and experienced, not to have been convicted of immoral behaviour, not to be a bankrupt and to be of good behaviour.<sup>19</sup> The jurisdiction of this council was wider than its predecessors'. Its main functions and authority were:

1. To approve the budgets of governmental institutions and municipalities.
2. To initiate economic and financial projects.
3. To formulate laws and regulations.
4. To authorise subsidies added to the budgets of governmental institutions within the fiscal year.
5. To make decisions relating to the employment of foreigners.
6. To enter into contracts with companies or dealers for purchasing requisitions or selling assets of governmental institutions, if the amount should exceed two hundred Jinehs.<sup>20</sup>

In addition, the Council had the power to oversee the actions of the government and to alert it to any mistake in the application of laws and regulations.<sup>21</sup>

Article 11 of the Law of the Majlis explains the relationship between it and the government thus:

If the government proposes a draft resolution to the Majlis which is then rejected or amended by the Majlis in a way not acceptable to the government, then, the Viceroy must return the draft resolution to the Majlis

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<sup>19</sup> Ibid, Articles 4 and 5.

<sup>20</sup> Ibid, Article 6.

<sup>21</sup> Ibid, Article 10.



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with sufficient commentary to explain the government's point of view and the necessity of changing the resolution. In the event of the Majlis refusing to pass it for a second time, or insists on its amendment, then the final word on this issue lies with His Majesty the King.

If a month elapses before obtaining the approval of His Majesty the King on the draft resolution suggested by the Majlis, the Majlis may discuss it with the King through its Chairman.

The Majlis required the presence of 50 % of its members, and the Chairman, to convene, and its resolutions were passed by a two-thirds majority.<sup>22</sup>

King Abdulaziz inaugurated the first session of the Council on Thursday 1926/14-1-1346H. The Council held regular meetings twice a week. It divided its members into two committees, the Regulations (laws) Affairs Committee and the Finance Affairs Committee. During 1926, the Council held one hundred and nineteen sessions and issued two hundred and twenty-one resolutions.<sup>23</sup> One year later, however, this Majlis was also dissolved by King Abdulaziz and a new Majlis was formed.

#### **4.3.3 The Majlis Ash-Shura of 1928**

Although the new Majlis adopted the same authorities as the previous one, its new law contained some major changes. These were as follows:

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<sup>22</sup> Ibid, Articles 7 and 8.

<sup>23</sup> Al-Zahrani, The Progress of Majlis Ash-Shura in the Kingdom of Saudi Arabia, op. cit. p.39.

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1. The number of members and the method for their selection. There was to be no limit on the number of council members, as all the members were to be appointed by the King.<sup>24</sup>

2. The Chairmanship of the Majlis. The Chairman of the council, who occupied the position of Viceroy, was to retain his position as Chairman, but for the first time, with two permanent deputies. The first deputy was to be appointed by the King, while in the event of his absence a replacement was to be elected by the Majlis members.<sup>25</sup>

3. The majority required for passing resolutions. Whereas this majority in the previous Majlis was half of the members, with a resolution requiring a two-third majority to be passed, the requisite majority of the 1928 Majlis became two-thirds, with an absolute majority being required for resolutions to be approved.<sup>26</sup>

4. The Majlis meetings. In contrast to the previous Majlis, which held two meetings a week, the new Majlis met every day.<sup>27</sup>

5. The Majlis committees. The Majlis started with two committees, each authorized to study whatever the Chairman submitted to it. Then, a third committee was established, with new duties. The first committee was in charge of regulations; the second dealt with financial matters, whereas the third was empowered to deal with administrative issues.<sup>28</sup>

Prince Faisal Bin Abdul Aziz remained Chairman of the Council during the reign of King Abdul Aziz and King Saud. Amendments were made in 1950 increasing the

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<sup>24</sup> The Law of Majlis Ash-Shura, 1928, Article 1.

<sup>25</sup> Ibid, Article 2.

<sup>26</sup> Ibid, Article 7.

<sup>27</sup> Ibid, Article 8.

<sup>28</sup> Addendum of the Law of Majlis Ash-Shura, 1928, Article 4.



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number of members to twenty. This number was increased again to twenty-five in 1955, and the number of committees increased to seven. The Council played an important role in the enactment of laws and directives regulating the public and service sectors, and promoting social, scientific and economic development. During the reign of King Abdul Aziz (1924–53) the Council issued seven thousand, two hundred and thirty-nine resolutions in four thousand and ten sessions.<sup>29</sup>

After the establishment of the Council of Ministers in 1953, several of the Shura Council's responsibilities were transferred to the Council of Ministers or other governmental bodies. However, the Shura Council continued to meet in regular sessions and consider all the matters referred to it. During the reign of King Saud (1953–65), the Council issued one thousand, two hundred and thirty four resolutions in one thousand and seventy-five sessions.<sup>30</sup>

It is clear that the Council played an effective role for twenty-five years of the Kingdom's history. Although it was a period of international economic crisis which, together with the second World War, placed great burdens on the shoulders of its members, the Council took some responsibility for the progress of the country.

During that period, the Council was productive, issuing more than eight thousand resolutions. All the regulations (laws and by-laws) were prepared and issued at that time by the Majlis. Dahlan<sup>31</sup> estimated that there were more than one hundred and seventy regulations (laws) issued at that time, some of which are still being adopted in the country.

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<sup>29</sup> Al-Zahrani, *The Progress of Majlis Ash-Shura in the Kingdom of Saudi Arabia*, op. cit. p.263.

<sup>30</sup> Ibid. p.315.

<sup>31</sup> Dahlan, Ahmed, *Study in the Internal Policy of the Kingdom of Saudi Arabia*, (Jeddah: Dar Al-Shuroq, 1984), pp. 168-174.

Al-Hussayen<sup>32</sup> believed that “the Council had played a positive role in the development of the Saudi legal system, bridging the gap between the tradition and the modernization of the Kingdom.” He added, “Suffice it to say that the Council was active in a period that Shura was ignored by almost all Muslim countries”.

Al-Shalhoub<sup>33</sup> agreed with Al-Hussayen regarding the important role played by the Majlis in Saudi Arabia at that time, by saying: “The Council clearly left its imprint on the Saudi constitutional evolution”.

Nevertheless, the power of the Majlis began to decline in 1953 as a result of the establishment of the Council of Ministers, which took over most of the Majlis’ jurisdiction and embodied the legislative and executive authorities. After that, some members of the Majlis were transferred to other governmental departments and others were removed without being replaced. The last annual report submitted by the Majlis to the King was in 1959.<sup>34</sup>

A study<sup>35</sup> conducted in 2001 revealed that the foundation of the Council of Ministers has contributed to the freezing of the Majlis Ash-Shura’s role owing to the transfer of the power to the former. Saudi Arabia continued without a legislative authority from that time until the early 1990s.

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<sup>32</sup> Al-Hussayen, *The Shura government: Its history, theory, and potential for implementation*, op. cit. p.260.

<sup>33</sup> Al-Shalhoub, *the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws*, op. cit. p.238.

<sup>34</sup> Ibid.

<sup>35</sup> The Diplomatic Centre for Strategic Studies, *The Reality and Horizons of the Ash-Shura Experiment in Saudi Arabia*, (Kuwait, 2001).



Al-Malek<sup>36</sup> maintains that the foundation of the Council of Ministers in 1953 had not totally ignored the Majlis' role, but had restricted its authority. He stated: "By virtue of that law, the Council of Ministers had been empowered with the executive power and become a partner in the legislative power." In Al-Shalhoub's<sup>37</sup> view, the main reasons for the decline in the importance of Ash-Shura Council, was "the struggle between King Saud and Prince Faisal, the Chairman of the Majlis Ash-Shura, over the method in which the executive functions of government (the Council of Ministers), should be handled, which led to ignoring the role of the Majlis". He also believed that the general instability during the 1950s and 1960s was characterized by political disturbances in the Arab World, revolutions and the changing of governments. Therefore, the most important task for the Saudis at that time was to secure their country from internal and external threats and solve the financial crisis. As Saaty puts it:

Saudi Arabia went through an extremely difficult financial crisis due to the monetary inflation which hit all economic levels. Hence, this situation needed fast and immediate decisions to correct the monetary and financial errors. It was only the rapid decisions taken by the government which saved the country from going bankrupt.<sup>38</sup>

While the Majlis was still legally alive and remained in existence from 1959 until 1992, in practice it was not functioning during that period and it stopped issuing resolutions in 1977. However, the Council passed an important resolution in 1965, with the aim of supporting the transfer of power from King Saud to Crown Prince Faisal. When he took

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<sup>36</sup> Al- Malek, S., the Form of Ash-Shura Applications in Kingdom of Saudi Arabia, (a paper presented to a symposium entitled Ash-Shura in Islam and its relation with the contemporary life: Riyadh, 25<sup>th</sup> Jan 2001).

<sup>37</sup> Al-Shalhoub, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. p.239.

<sup>38</sup> Saaty, Mohammed, The Constitutional Development in Saudi Arabia, (Ph.D. Dissertation, Claremont Graduate School, 1982). p.108.



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over responsibility for government and became the King in 1965, Prince Faisal continued as Chairman of the Majlis, but assigned a deputy to chair the Majlis' ordinary sessions.<sup>39</sup>

After the death of King Faisal, King Khaled took great interest in the development of the Shura Council. In 1982, he ordered the establishment of ten committees under the Presidency of His Royal Highness Naif bin Abdulaziz, the Minister of the Interior. The ten committees included Abdulwahhab Abdulwasie, former Minister of Pilgrimage and Endowment, Ibrahim Al-Angari, Special Advisor to the King; Abdulaziz Al-Tuagery, Vice-President of the National Guard, Abdulrahman Mansori, Deputy Minister of the Foreign Ministry, Mohammed Ibrahim Masoud, former Minister of State, Mohammed bin Jubair, former Minister of Justice, Rashed bin Khunain, former President of Girls' Education and now an Advisor in the Royal Court, Abdulaziz Al-Salim, General Secretary of the Council of Ministers, Muttlab Al-Nafissah, Minister of State and former President of the Experts Division in the Council of Ministers, and Saleh Al-Husain, former Minister of State.<sup>40</sup> This committee was given the task of drafting the basic Law of government, the Law of the Council of Ministers, the Law of Majlis Ash-Shura, and the Law of the Provinces. The Majlis Ash-Shura continued to meet regularly during the reign of King Khaled. The sessions were presided over by the Vice-Chairman, Sheikh Ahmed Ibrahim Al-Gazzawi, until his death in late 1982. In 1983, a decision was made by the Council of Ministers to assign Mr Sadiq Dahlan the task of running the affairs of the Shura Council.<sup>41</sup>

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<sup>39</sup> Al-Shalhoub, the Constitutional System of the Kingdom of Saudi Arabia between the Islamic Sharia and Comparative laws, op. cit. p.239.

<sup>40</sup> Reported in Asharq Al-Awsat, daily Arab News, No. 4843, 2-3-1992.

<sup>41</sup> Al-Zahrani, The Progress of Majlis Ash-Shura in the Kingdom of Saudi Arabia, op. cit. p.285.



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In spite of the re-establishment of the Majlis Ash-Shura being promised many times during the reigns of King Saud, Faisal and Khalid, no Majlis was ever formed. During the 1980s, King Fahd made a serious attempt to establish the Majlis by the actual construction of the Majlis Ash-Shura complex in 1984.<sup>42</sup>

#### 4.4 The modern Majlis Ash-Shura

The developments and challenges that the Kingdom faced during the early 1990s have had a major impact – giving movement to the Saudi leadership’s ambitions to develop the state and modernize the mechanism of administration and advance public participation in decision-making.

On the first of March 1992, King Fahd issued a royal decree that established the present Constitution of the Kingdom of Saudi Arabia: “The Basic Law of government”. Article 8 of this Basic Law states: “The rule in the Kingdom of Saudi Arabia is based on justice, Shura and equality, in accordance with the Islamic *Sharia*.” Also, Article 51 states that: “A Majlis Ash-Shura is to be created. Its Regulations will specify how it is formed, how it exercises its powers and how its members are selected. The King has the right to dissolve and reform it.” King Fahd’s Royal Decree<sup>43</sup> embodied the Law of the Majlis Ash-Shura and replaced the Majlis’ law issued in 1928. In an historical speech delivered to the Saudi nation, King Fahd confirmed that the Majlis Regulation (law) has its foundation in Islam, in both its name and content.<sup>44</sup>

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<sup>42</sup> Aba-Namay, Rahshe, “Constitutional Reform: A Systematization of Saudi Politics”, Journal of South Asian and Middle Eastern Studies Vol. XVI, No. 3, Spring 1993.p.48.

<sup>43</sup> After the announcement of the establishment of the new Majlis a Royal Decree number A/91 was issued on March 1<sup>st</sup>, 1992 that embodied the Law of the Majlis Ash-Shura.

<sup>44</sup> King Fahd’s speech to the Saudi citizens, the Umm Al-Qura Gazette, No. 3397, dated 6/3/1992.

#### **4.4.1 Comparison between the old and the modern Majlis**

Comparing the new Majlis Ash-Shura with the previous Majlis, one can draw the following conclusions:

1. During the reign of King Abdulaziz, the Majlis Ash-Shura enjoyed more authority than does the present Majlis; it exercised both legislative and executive authority. In addition, the jurisdiction of the Majlis extended to include a wide range of authorities. Most importantly, it was empowered to review and approve the budgets for governmental and municipal agencies, overseeing the government and alerting it to any mistakes. There were several reasons for this, the most important being the fact that, at that time, the Council of Ministers as well as some other ministries and governmental departments had not yet been founded. Moreover, the earlier Majlis Ash-Shura was chaired by a powerful leader, i.e. Prince Faisal (later on King Faisal) who was acting – at the same time – as the King’s Viceroy in the Hijaz Province. Prince Faisal had assisted the Council in playing an effective role in the Kingdom’s development during its new foundational era during which it had faced a shortage of financial and human resources and potential.
2. In selecting members, the previous Councils had adopted the principle of election, with some members elected and others appointed. When the Majlis Al- Ahli (Domestic Council) was established in 1924, all the members were elected. The Majlis of 1926 combined both methods of selecting members, appointment and election, whereas (in the years 1927 and 1928) the Majlis only used the appointment system. The modern Majlis has adopted the appointment system as a mechanism used by the King for choosing the membership of the Council.
3. The Law of the previous Councils contained only fourteen articles, whereas the new one has thirty.



4. As regards the age of Council members, the previous Majlis decided upon 25 as the minimum age for membership, whereas the current Majlis has fixed upon 30.
5. The duration of the previous Majlis was two years, whereas the new one lasts for four years.
6. The earlier Majlis were located in Makkah, while the new one is in Riyadh.
7. The previous Councils had the right to discuss its resolutions with the King if two months had elapsed before the approval of the King was obtained,<sup>45</sup> whereas the current Council does not have this right.
8. The interior laws and regulations of the previous Councils were made up of twenty-four articles, whereas the interior laws of the current Council are made up of thirty-four articles. These articles clarify the jurisdiction of the Chairman, the Vice- Chairman, the Secretary General, the Steering Committee, the Sessions, the Committees and the voting on and adoption of resolutions. Another by-law has also been issued to explain the rights and duties of the Majlis members, the rules and procedures for the investigation and trials of the members and the rules for organizing the financial and personnel affairs of the Council. These issues did not appear in the previous Majlis law. Therefore, the interior laws of the current Majlis render its working practices very similar to those of parliaments in many other countries.
9. The Law of the modern Majlis gives its members the right to propose new draft laws and amend existing laws.
- 10 The Law of the current Majlis gives its members the right to interpret laws.

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<sup>45</sup> The Law of Majlis Ash-Shura, 1928, Article 10.

11. The previous law established that there should be two Vice-Chairmen for the Majlis, whereas the current one states that there should be only one Vice-Chairman and a deputy.

#### **4.4.2 The establishment of the modern Majlis Ash-Shura**

After the establishment of the current Majlis was announced on 1<sup>st</sup> March 1992, some questions were raised regarding the nature of the authority of the Majlis in such a ‘‘conservative society’’, and the role it could play given that the members of the Majlis were to be selected and not elected. Some believed that the Majlis would consist of no more than ‘‘honorary-positions’’ granted to some Saudi people. But on the announcement of the Law of the Majlis and its selected members, people realized the seriousness of the Saudi leadership in extending the citizens’ political participation in decision-making.<sup>46</sup>

This can be realized from the accurate way in which the criteria were applied to the selection of the Majlis members for its term. Also, the selected members had been very efficient in their fields. Moreover, the seriousness of the chosen candidates indicated the earnest intent of the government and the huge effort exerted by them in this selection process. The mechanism for the selection of members passed through various stages until the completion of the final list.<sup>47</sup> Also, the nomination of its Chairman, the Minister of Justice Sheikh Mohammed Ibn Jubair indicated the seriousness of the government in establishing an effective Council.

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<sup>46</sup> The Diplomatic Centre for Strategic Studies, *The Reality and Horizons of the Ash-Shura Experiment in Saudi Arabia*, op.cit.

<sup>47</sup> Ibid.



On 20<sup>th</sup> August 1993, sixty members were appointed to the Majlis for the duration of its first term. These appointments were welcomed by almost all sections of the Kingdom and the region because the composition of the Majlis included the best qualified of the Saudi elite with regard to their specialities and achievements. In this regard, John Bulloch<sup>48</sup> wrote:

“King Fahd has gone further than many dared to hope in choosing members of the Council who will reflect all walks of life in the Kingdom, and all tendencies of public opinion. The result is a balanced consultative council mirroring Saudi society as a whole, though with a remarkably high level of academically qualified members which should ensure that debate is carried on in a rational and informed way – if a British model were chosen for comparison, then it would certainly be the dignified and well-informed House of Lords, not the noisy, ill-disciplined and point-scoring Commons”.

However, some critics have pointed out that the Council is only an advisory body whose members are chosen for no reason other than their loyalty to the system; nobody in the Council is expected to “rock the boat”.<sup>49</sup>

Dekmejian believed the establishment of the first modern Majlis occurred at a difficult time: “The Majlis”, he writes, “came into being at a critical time in the aftermath of the 1991 Gulf War. The war’s psychological impact and its massive cost, as well as declining oil revenues, created serious challenges for the Saudi State.”<sup>50</sup> Despite these difficulties, the Majlis was able to conduct its business and started its first session on 29<sup>th</sup> December 1993.

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<sup>48</sup>Bulloch, John, The Shura Council in Saudi Arabia, (London: Gulf Center for Strategic Studies, October, 1993), p.3.

<sup>49</sup> Hirst, David and Kathy Evans, Foreign Section, the Guardian, August 23<sup>rd</sup>, 1993. p.9.

<sup>50</sup> Dekmejian, Harir, “Saudi Arabia’s Consultative Council”, The Middle East Journal, Vol 52, no. 2 (Spring 1998), pp. 204-218.

#### 4.4.3 The functions and responsibilities of the Majlis

The Basic Law of the Majlis and its internal laws stipulate and define the functions and powers assigned to the Council. Article 15 of its law states that the Majlis has the right to express its opinions on the general policies of the state referred to it by the Prime Minister. Regarding the Kingdom's domestic affairs in particular, the Council exercises its oversight functions through its right to discuss the general plan for economic and social development, and to discuss and comment on the annual reports submitted by the government ministries and other governmental departments. In addition, the Council has the right to summon any governmental official to its meetings and ask him about his ministry, department or the performance of his duties.<sup>51</sup>

The Council exercises its legislative function through its right to initiate legislation for any matter concerning the Kingdom and its citizens. In addition, as part of the legislative process, the Majlis must be consulted prior to draft legislation being submitted to the King to receive his royal approval.<sup>52</sup> Also, it exercises its legislative function, when studying laws and by-laws, and interprets the laws referred to the Council from the Prime Minister (the King).<sup>53</sup>

Regarding the external affairs of the Kingdom, the Majlis has the right to study international treaties and agreements and make whatever suggestions it deems appropriate.<sup>54</sup> Article 18 of the Majlis Law states that international treaties and agreements should be issued and amended by royal decrees after being studied by the Majlis Ash-Shura.

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<sup>51</sup> Article 22 of the Majlis law states: "The Chairman of the Majlis Ash-Shura has to submit to the Prime Minister (The King) requests to summon any government official to the meetings of the Majlis when matters relating to his jurisdiction are discussed. The official shall have the right to debate but not the right to vote."

<sup>52</sup> The Law of Majlis Ash-Shura, Article 18.

<sup>53</sup> Ibid. Article 15.

<sup>54</sup> Ibid.



To enable the Majlis to perform its functions efficiently, the following authorities are assigned to it:

1. The Majlis expresses its views on the issues referred to it, in the form of resolutions.
2. The Majlis has the right to request statements and documents from the government.

Article 24 of the Majlis Law states: “The Chairman of the Majlis Ash-Shura shall submit a request to the Prime Minister to provide the Council with statements and documents in the possession of government institutions, which the Council believes are necessary to facilitate its work”.

3. Members of the Majlis may address questions to the concerned minister who may be summoned to the session of the Council regarding an issue before the Council.

#### **4.4.4 Structure of the council**

The current Council is composed of a Chairman and a hundred and twenty members, who are all chosen by the King.<sup>55</sup>

##### **a. Chairmanship**

According to Article 10 of the Law of the Majlis Ash-Shura, the King appoints the Chairman and the Vice-Chairman. The Chairman represents the Council in contacting other authorities and other government departments, and speaks on its behalf. He supervises all the work of the Council, chairs all Council and Steering Committee sessions as well as any committee meeting he attends.<sup>56</sup> The Council’s by-laws state that the Chairman opens and closes Council sessions, gives permission to speak, and opens the voting. He can also convene an emergency meeting of the Council, Steering Committee, or any other committee to discuss any subject. The Chairman should submit

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<sup>55</sup> Ibid, Article 3.

<sup>56</sup> The Law of Majlis Ash-Shura, Article 2 of the By-laws of the Jurisdiction of the Chairman of the Majlis.

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annual reports to the King on the Majlis work. According to the by-laws, the Vice-Chairman is responsible for assisting the Chairman when he is present and acting on his authority in his absence.<sup>57</sup> The Chairman of the Majlis Ash-Shura occupies an important position in the country. The former and current Chairmen of the Majlis were notable *Ulamas* (religious leaders); both being members of the Board of Senior *Ulamas* in the Kingdom.

### **b. Membership**

A member of the Council should satisfy the following requirements as stipulated in its law.<sup>58</sup>

1. A Saudi national by birth and descent.
2. A competent person of recognized good character.
3. Not younger than 30.

According to an official publication,<sup>59</sup> consideration is given to a number of factors when selecting the members of the Council to ensure the inclusion of highly educated people, those qualified in different fields and those obtaining certificates from different countries of the world. In addition, members are selected to include representatives of different social environments in order to promote awareness of the interests of the state and the citizens. Also, the council members are selected for their professional and geographical backgrounds all of which help to promote knowledge of different background needs and requirements throughout the country. Members of the Council must recite the following oath before the King: "I swear by Allah Almighty to be loyal to my religion, then to my King and country. I swear not to reveal any of the secrets of

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<sup>57</sup> Ibid, Articles 4, 5, and 6.

<sup>58</sup> Ibid, Article 4.

<sup>59</sup> Majlis Ash-Shura in the Kingdom of Saudi Arabia, (Riyadh, published by the Majlis , July, 2004), p.11.



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the State, to protect its interests and laws, and to perform my duties with sincerity, integrity, loyalty and fairness”.<sup>60</sup>

#### **4.4.5 The background of the Majlis members**

Before discussing the backgrounds of the members of the modern Majlis Ash-Shura during its three terms, it should be noted that the data is based on information provided by the members themselves from all 3 terms, in the distributed questionnaire.

##### **1. Age**

As Figure 4.1 shows, most of the Council members of all three terms, approximately 74 per cent, are more than 50 years old. Of those, 40 per cent are between 50 and 59 years old and 33.6 per cent are 60 years old or more, while only 26.4 per cent of the members are under 50. These results indicate that the members of the Council are older, on average, than the Saudi population as a whole, which has a large percentage of young people. In the year 2000, the age structure of the Saudi population was such that the number of people below 30 years of age was 11.9 million, which accounted for 74 per cent of the total Saudi population.<sup>61</sup> In this respect Saudi Arabia is no different from other states in the region and beyond; it is common for the members of councils and parliaments in the region to be older, on average, than the citizens.

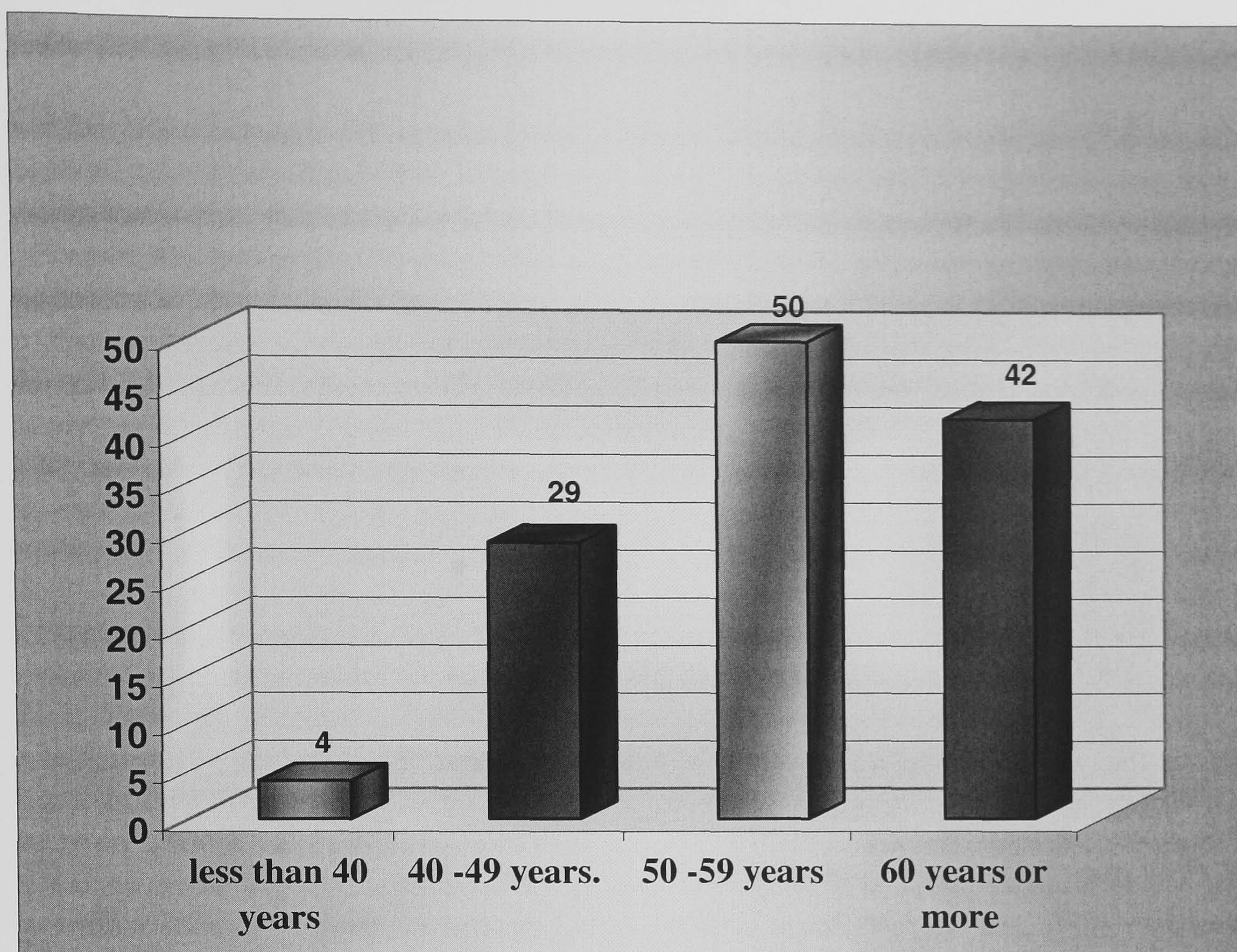
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<sup>60</sup> The Law of Majlis Ash-Shura, Article 11.

<sup>61</sup> Source: Saudi Arabian Monetary Agency (SAMA) reports, 2001.



**Figure 4. 1    Distribution of Council members by age**



## **2. Level of education**

Dekmejian<sup>62</sup> described the composite educational profile of the Majlis members as being “truly impressive in terms of the overall level of formal academic achievement.”

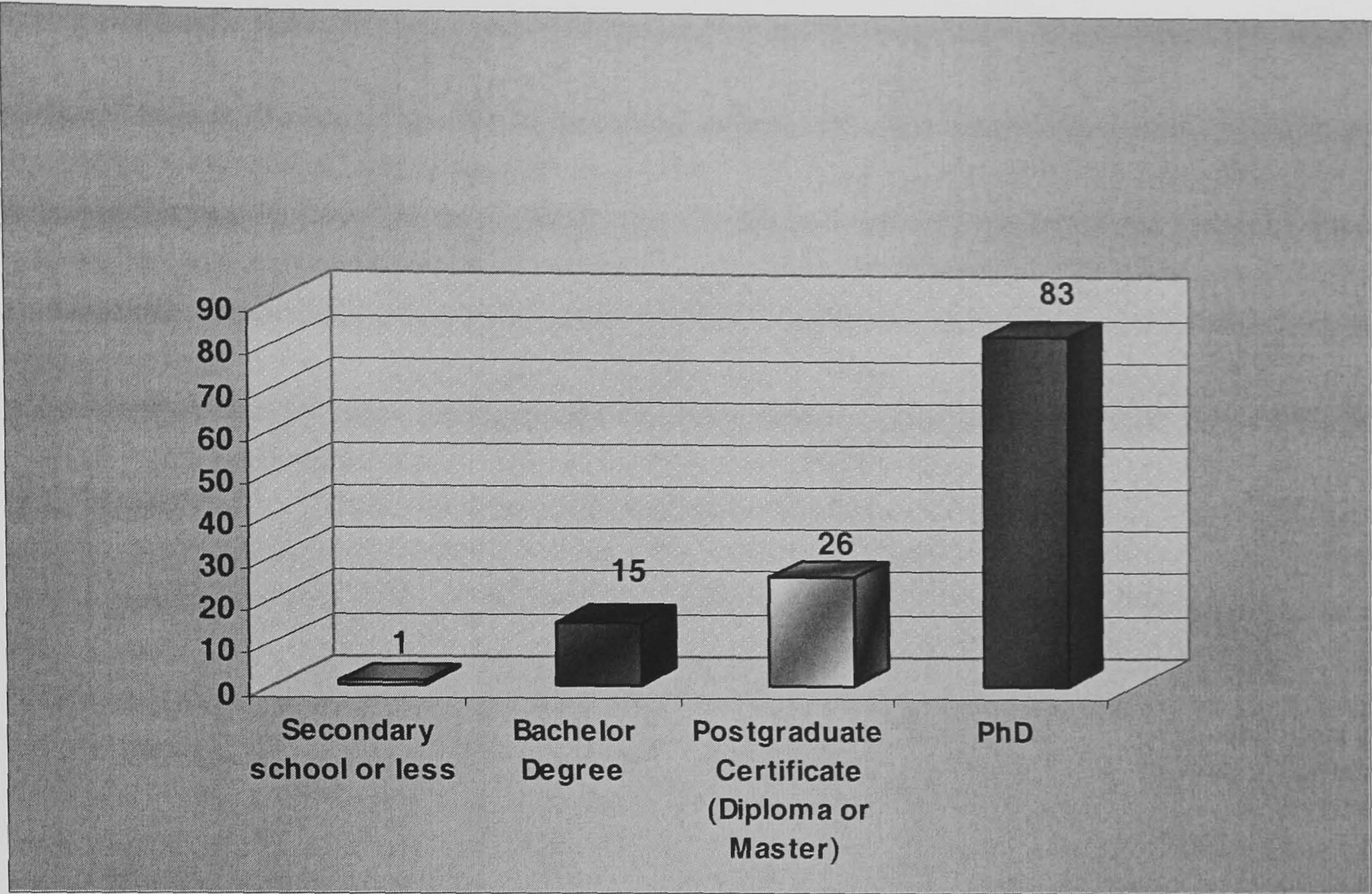
As Figure 4.2 shows, the educational level of members is very high. The majority (66%) hold doctoral degrees (many from top Western universities), approximately 21 per cent hold masters and postgraduate degrees, and 12 per cent hold bachelor degrees. Only 1 per cent hold secondary school qualifications or less. This fact reflects the level of educational development in Saudi Arabia, and at the same time shows the high standard of education that the members have attained compared with members of similar councils in other countries across the world.

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<sup>62</sup> Dekmejian, “Saudi Arabia’s Consultative Council”, *The Middle East Journal*, op. cit. pp. 204-218.



**Figure 4.2    Distribution of Council members by level of education**



**3. Field of specialization**

The breakdown of the fields of educational specialization of the Council members, as shown in Table 4.1, indicates that the largest specialization group (37% of the members) is the administrative sciences. The second largest (about 25% of Majlis members) is human sciences, while 15 per cent is engineering. The remaining specialisms of the Council membership include medical sciences (7%), religious and Islamic sciences (7%) with 2 per cent for other sciences. There are also a few specialists in military science.

**Table 4.1    Distribution of Council members by field of specialization**

Ser.	Field of Specialization	Frequency	Percent
1	Administrative sciences	47	37.60%
2	Engineering sciences	19	15.20%
3	Medical sciences	9	07.20%
4	Humanities	31	24.80%
5	Scientific specialties	4	03.20%
6	Religious & Islamic sciences	9	07.20%
7	Military sciences	3	02.40%
8	Other fields	3	02.40%
Total		125	100.00%

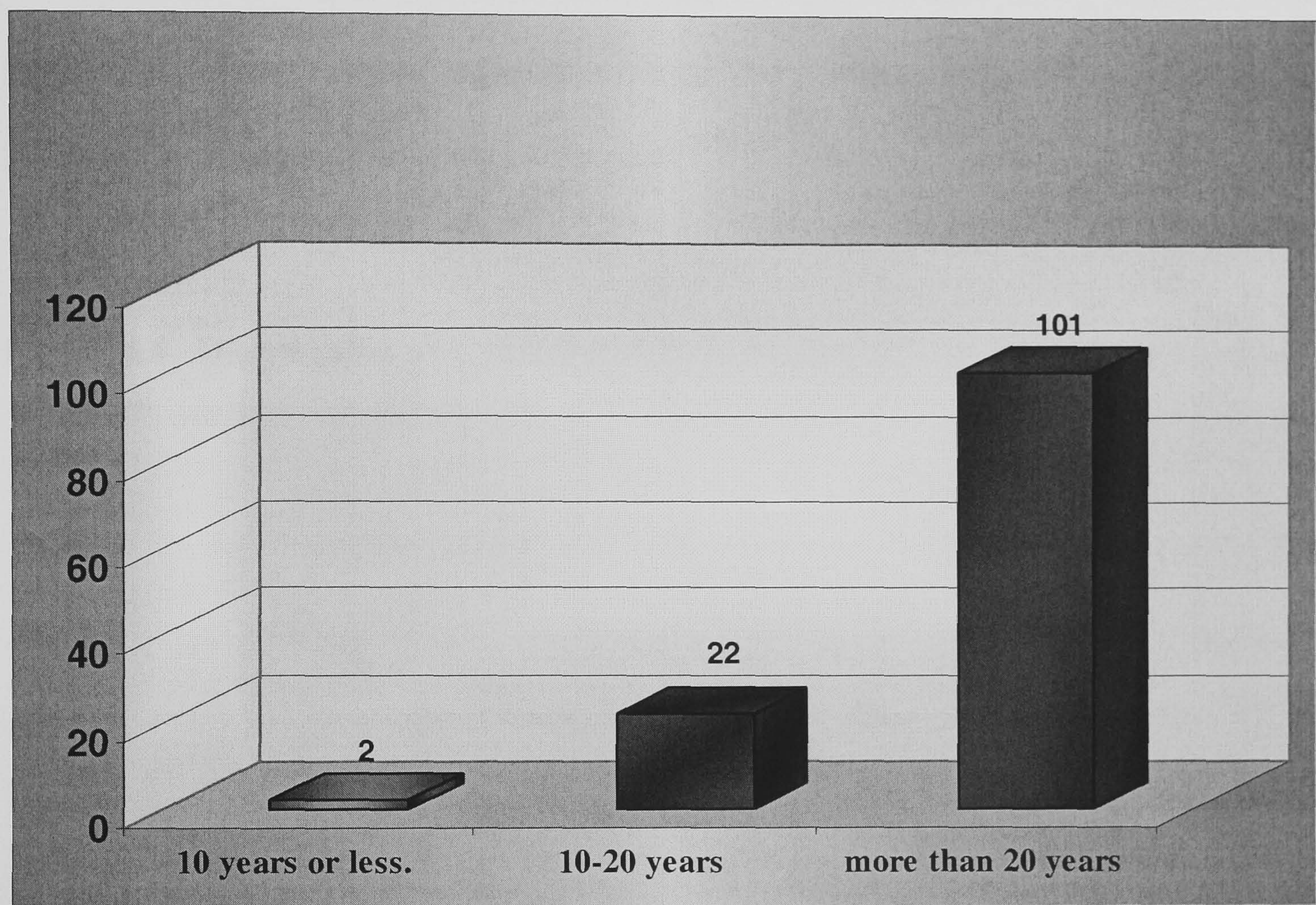




4. Previous experience of members

Figure 4.3 shows that the majority (80% of the members) have previous experience of more than twenty years, with the remainder having previous experience that ranges from less than ten to twenty years.

Figure 4. 3    Distribution of Council members according to duration of previous experience



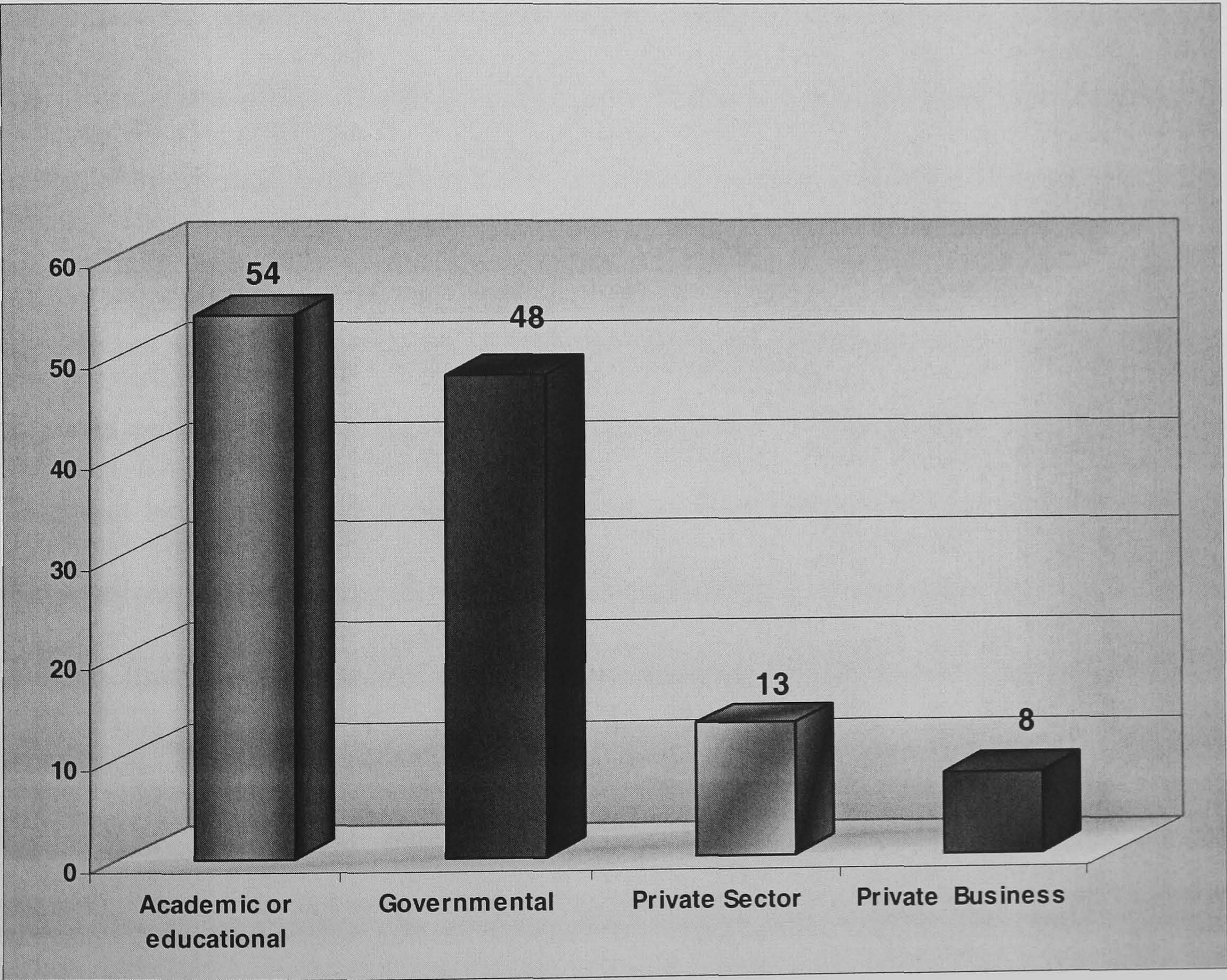
5. Previous occupation

In the classification of the occupational backgrounds of the Majlis members, it should be noted that, as Figure 4.4 shows, there are four occupational categories. The largest occupational categories – 43.2 per cent – are in the academic and educational fields and the lowest – 6 per cent – are in business; 38.4 per cent of the members have worked in governmental ministries and institutions; and 10.4 per cent have had experience in the private sector. Many Majlis members were ministers or deputy ministers or held other high government or public positions, as well as being religious leaders.



Dekmejian in his study of the occupational backgrounds of the members of the 1997 Majlis concludes that “ Virtually all Majlis members were recruited from the highest ranks of government agencies, academic institutions, the professions and the military and security forces”. He thinks that “the country’s security concerns, both internal and external, are reflected in the appointment of the retired police and military generals to the Majlis. The presence of diplomats may signal a possible role for the Majlis in forein policy, and the inclusion of prominent businessmen acknowledges the need to include the privte sectore in the consultative process”. <sup>63</sup>

**Figure 4.4    Distribution of Council members by duration of previous occupation**



<sup>63</sup> Dekmejian, “Saudi Arabia’s Consultative Council”, *The Middle East Journal*, op. cit. pp. 204-218.



In conclusion, the Saudi Majlis Ash-Shura is made up of highly-educated people from different fields of specialization. The members are older than middle-aged, and 81 per cent of them have had academic or government experience.

#### **4.4.6 The rights and duties of the Council members**

The by-laws of the Majlis, which describe the rights and obligations of the members, state that membership of the Council shall take effect from the beginning of the Council's term as specified in the royal decree of its formation. If a member resigns (or if a member's position becomes vacant for any reason, e.g. through death), a substitute member shall commence on the date specified in the Royal Order appointing him. His membership will expire at the end of the Council's term, unless the term of the Council ends before the new Council is formed, or alternatively his membership is terminated.<sup>64</sup>

The internal law of the Majlis also stipulates that a Council member shall observe full neutrality (impartiality) and objectivity in all his functions inside the Council. He should refrain from bringing up any subject before the Council that deals with a private interest, or that is contrary to the public welfare. The internal law also requires members to attend sessions and committees on a regular basis.<sup>65</sup> The member should notify the Chairman in writing if he is unable to attend the Council or committee meetings. He is also required to participate in voting, whether endorsing or opposing and is not allowed to leave the Council session or committee meeting before it ends, unless he obtains permission from the Chairman of the Council or the head of the committee. Furthermore, he should maintain confidentiality by keeping official papers and documents in the Council. In addition, the Council law requires that members do not use their positions for personal gain. A member may not combine the Majlis Ash-Shura

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<sup>64</sup> The by-laws of the Majlis Ash-Shura, Article 13.

<sup>65</sup> Ibid, Articles 5 and 6.



membership with any other public office or company management, unless the need for such an exception arises and the King deems it necessary.<sup>66</sup>

The laws stipulate that a member, who has held a public office before being appointed to the Majlis Ash-Shura should keep the same job scale. The period of Council membership duration is to be counted as part of his service period according to Council regulations. A member may submit a request for relief from his duties to the Chairman of the Council, who in turn submits it to the King.

During his period of membership, an Ash-Shura Council member receives a monthly payment. He may also receive the allowances, awards, compensation and benefits of those who occupy job scale 15 in the government. However, this would have no effect on the member's retirement salary. Following his appointment, the Council member should immediately be paid a sum amount that includes the full price of a car, plus the driving, maintenance and fuel costs, for each four-year term of the Council. The member should also be granted a forty-five day annual vacation so long as it does not affect the quorum needed for convening the Council's sessions.

The internal law of the Council ensures the freedom of the member to express his opinion whether in the Council sessions or the committee meeting. This right is essential for opposing decision-making, when appropriate, and for constructive criticism.

The Law of the Council contains special procedures that should be followed for the investigation and trial of Majlis members. If a member of the Ash-Shura Council fails to

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<sup>66</sup> Ibid, Articles 8 and 9.

perform his duties, the Steering Committee should form a three-member committee from amongst its members excluding the Chairman and the Vice-Chairman, to try the member accused of the alleged violation. This committee may impose the penalty of reprimand or action. If a member of the Shura Council neglects his duties, he shall be investigated and tried. If found guilty, he is subject to one of the following penalties:

A written reprimand should be directed to him, or

A deduction of one months' remuneration, or

A revocation of his membership

If the committee decides that the membership be revoked, the matter is then referred to the Chairman of the Council who in turn brings it before the King.<sup>67</sup>

#### **4.4.7 The number of Council members**

The number of the Majlis members have increased in the three terms (1993–2003). In its first term (1993–7), the Council was composed of sixty members. The number of members increased in the second term (1997–2001) to ninety. One study<sup>68</sup> indicates that the formation of the Majlis in its second term was characterized by the points summarized below.

1. The number of young members involved in the Majlis.
2. Almost fifty-eight members of the Majlis held Ph.D.s – sixty-three out of ninety members held postgraduate degrees from Western universities.

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<sup>67</sup> The by-laws of the Majlis Ash-Shura, the rules and procedures for the investigation and trial of Majlis members, Articles 1, 2, 3 and 4.

<sup>68</sup> The Diplomatic Centre for Strategic Studies, *The Reality and Horizons of the Ash-Shura Experiment in Saudi Arabia*, op. cit.



3. A number of the Majlis' members were known for their social criticism (through their writings for the press and analysis of the economic conditions). Media writers made up at least 22 per cent of the total number of members.
4. The composition of the Majlis covered the whole spectrum and all categories of society. This could be regarded as an example of gradual reform and expanding the public participation in decision-making.

The number of members became one hundred and twenty in the third term (2001–5).<sup>69</sup> Increasing the number of Council members during the second and third term shows the keen interest of the Saudi political leadership in extending the citizens' participation in the administration of the country's affairs, and utilizing the expertise of qualified people in different scientific, economic and political fields among others.

#### **4.4.8 The Council's sessions**

According to its regulations, the Ash-Shura Council shall convene in an ordinary session at least once every two weeks. However, the demands of its work now require a minimum of fortnightly sessions. The timing of the sessions is specified by the Council Chairman, who has the right to move forward or delay sessions when necessary.<sup>70</sup>

Council meetings must be attended by at least two-thirds of the members, including either the Chairman or Vice-Chairman of the Council. Also, resolutions shall not be officially considered unless they gain majority approval. The date and the time of the session shall be set by a decision of the Chairman of the Council.<sup>71</sup>

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<sup>69</sup> The number of members became one hundred and fifty in the fourth term (2005–9).

<sup>70</sup> The Majlis Ash-Shura in the Kingdom of Saudi Arabia, (Riyadh, published by the Majlis , July, 2004).

p.11

<sup>71</sup> Ibid,pp.32-34.



The Chairman of the Council shall officially open and close all sessions. He shall direct discussions, raise topics for a vote and take any action he deems necessary to maintain order during Council sessions.<sup>72</sup> The agenda shall be distributed to members before the opening of each session. Subjects, reports and other documentation deemed necessary by the Steering Committee shall be attached to the agenda. The Council may postpone discussion of any subject or reschedule it.<sup>73</sup>

Any member who wants to speak during the session needs to submit a written request, and such requests shall be listed in order for submission. A member should not speak on a topic for more than ten minutes, unless otherwise allowed by the Chairman. A member should only address the Chairman, and only he can interrupt the member; permission for an extension of time shall be given by the Chairman. The Chairman has the right to decide on a temporary pause in the session for a period not exceeding an hour.

The by-laws give the Council the right to delay or reconsider discussion of a certain issue. Unless considered confidential, the sessions of the Ash-Shura Council are open to the public so that anyone may attend the discussions. Article 19 of the Ash-Shura Council's internal regulation states that minutes for each session should be written stating the place and date of the session, the time it started and the name of its Chairman. In addition, the minutes should show the number of members attending the session, the name of the absentees and the reasons behind their absence. In addition to the summary of the discussions, the minutes should also show the number of voters

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<sup>72</sup> Articles 3 and 13 of the Council's Bylaws.

<sup>73</sup> Articles 3 and 18 of the Majlis' Bylaws, and the Majlis Ash-Shura in the Kingdom of Saudi Arabia, op. cit. p.34.



supporting the resolution and the number of opponents, the result of the vote and the text of the resolution.<sup>74</sup>

The Secretary General should attend the Council's sessions and meetings. He announces the schedule and agenda of the sessions. Furthermore, he has to attend all duties assigned by the Council, the Steering Committee, or the Chairman of the Council. He must be accountable to the Chairman of the Council regarding all the financial and administrative affairs. The Chairman of the Council and the Secretary General should sign the minutes after they have been read to the Council, and any member can have the right to view them.<sup>75</sup>

#### **4.4.9 The voting and issuance of resolutions**

A simple majority of members, as stipulated in Article 16 of the Law of the Ash-Shura Council,<sup>76</sup> can issue the Council's resolution. It should be clear that the resolutions are considered legal only if they are approved by the required majority (50% + 1 of the members), and not according to the attending members. Thus, a meeting of the Ash-Shura Council will not be valid without a quorum of at least two-thirds of its members, including the Chairman or his deputy. Resolutions shall not be considered valid without the approval of the majority of the Council members. If the majority is not attained, the topic shall be rescheduled for voting in the following session. In the event that the topic does not win the necessary majority support, the issue should be proposed before the King, along with any relevant study or results of the voting in both sessions.<sup>77</sup>

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<sup>74</sup> Ibid,p.35.

<sup>75</sup> Ibid.

<sup>76</sup> The Law of Majlis Ash-Shura, Article 16.

<sup>77</sup>The Majlis Ash-Shura in the Kingdom of Saudi Arabia, op.cit. p.38.



No discussion or presentation of new opinions shall be allowed during the voting process. In all cases, the Chairman shall vote after the members have voted. But, in case of a rejection of the result of voting, or on vote counting, a member may submit his objection to the Chairman within three days of the selected session. The Chairman will then submit the objections to the Steering Committee to tackle the issue in its first meeting. The objecting member shall be informed of such details according to the Council's regulations and the committee rules.<sup>78</sup>

If the draft cast for voting contains material made up of various articles, the Chairman of the Council has the right to allow voting on such material as a whole, or on each individual item. In the case of voting on the entire article, if the requisite majority is not attained the Chairman may cast such material for article-by-article voting. Also, any additional suggested recommendation submitted to the Council during deliberation of any topic shall be cast for voting.<sup>79</sup>

According to Article 32 of the internal regulations of the Ash-Shura Council, each member shall take part in voting following two options: approving or disapproving by means of (Yes, or No), as the law does not allow for abstention. The vote is cast by raising hands or by any means that the Chairman of the Council may suggest. If the result is unclear, the vote is cast again by calling out the names of members.<sup>80</sup> An advanced technique has been designed, specifically for counting attendees and absentees and for voting in the Council. Votes are cast by means of an advanced piece of technology, whereby a member's vote appears on a screen, and the voting system is linked to a studio (voice and photo). Terminals are connected to all the seats in the main

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<sup>78</sup> The Law of Majlis Ash-Shura, Article 20.

<sup>79</sup> An interview with Mr Ahmed Al-Yahia, the acting Vice-Secretary General of the Majlis, Riyadh 10/5/2003.

<sup>80</sup> Ibid.



hall. In addition to these terminals, which enable the Chairman and Secretary General to be in full control of the session, the program has other advanced features. For example, it clarifies the nature of the session whether it is ordinary, emergent, or confidential. Each of its terminal screens has a keyboard with keys for the following functions: speaking, requesting the floor, voting, topics that are being cast for discussion, sending text messages, sound control, along with the CVs of those taking part in the meeting and a delineated diagram of the hall. Each member has his own password to operate the terminal keyboard designed members to register their attendance. Members can also get full knowledge about the session agenda with all its attachments through the system.<sup>81</sup>

The Ash-Shura Council's resolutions should be submitted to the King who decides which resolutions are to be referred to the Council of Ministers for study. The resolutions are issued after the King's approval. If the views of the two Councils (Ash-Shura and Ministers) differ, the issue should be returned to the Ash-Shura Council to decide whatever it deems appropriate and send its new resolution to the King who has the final decision.<sup>82</sup>

#### **4.4.10 The productivity of the Majlis**

The Majlis' production can generally be measured by factors such as the number of sessions held, the number of discussed issues, the number of passed resolutions (laws or agreements) and by the average length of time (days) the Majlis is engaged in these activities. Table 4.2 indicates that the level of the Council's input (number of issues referred to the Majlis by the Prime Minister) and its output (number of resolutions passed by the Majlis) during the study period (1993–2003) has rapidly increased throughout the three terms.

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<sup>81</sup> Ibid.

<sup>82</sup> Ibid.



**Table 4.2 The Majlis Ash-Shura general activities (1993–2003): Input of referred issues and resolutions output**

Term/year	No. Of Sessions	Referred Issues by Prime Minister (Input)	No. Of Issues Studied	No. Of Passed Resolutions (Output)	Percentage
1/1	16	52	21	20	38.46%
1/2	33	22	47	45	204.55%
1/3	46	28	25	24	85.71%
1/4	46	49	55	55	112.24%
<sup>1st</sup> term total	141	151	148	144	95.36%
2/1	71	66	66	59	89.39%
2/2	68	93	46	46	49.46%
2/3	79	109	86	86	78.90%
2/4	87	106	105	105	99.06%
<sup>2nd</sup> term total	305	374	303	296	79.14%
3/1	78	116	84	72	62.07%
3/2	77	147	110	97	65.99%
<sup>3rd</sup> term total	155	263	194	169	64.26%
<b>Total</b>	<b>601</b>	<b>788</b>	<b>645</b>	<b>609</b>	<b>77.28%</b>

**\*Percentage of out put was calculated in relation to the total of input**

**Researchers' calculation; source: the Majlis Data Archive**

Table 4.2 shows that the total number of issues referred by the government to the Majlis was one hundred and fifty-one in the first term, this increased to three hundred and seventy-four in the second term. The increase in input led to an increase in output (resolutions passed by the Majlis), which doubled between the first term and the second term (144/296). The Majlis has held its sessions regularly since its establishment in 1993. In the period 1993–7 (first term), it held one hundred and forty-one and studied one hundred and forty-eight issues, while in the period 1997–2001 (second term), it held three hundred and five sessions and studied three hundred and three issues. This means that the Majlis was more productive in the second term than in the first term, while it was most productive in the first two years of the third term compared with the first two years of the first and the second terms.



**Table 4.3    The average length of time taken by the Majlis to produce resolutions**

Resolution	The Average Length of Time for Passing a Resolution in the Majlis		
	Year	Month	Day
In Legislative Affairs	1	4	15
In External Affairs	0	2	24

In order to measure the productivity of the Majlis, the average length of time spent by the Council in passing a resolution was studied. The researcher examined the output of five resolutions regarding laws and regulations, and another five regarding international agreements and treaties, as a sample for studying the average length of time spent passing resolutions during the period 1993–2003. The resolutions on which the study is based total 100 during the ten-year period of study. As Table 4.3 shows, the results indicate that the average length of time spent on passing resolutions in legislative affairs is one year, four months and fifteen days. The average length of time spent on passing resolutions in external affairs is two months and twenty-four days. The average length of time spent on passing resolutions in legislative affairs is longer than for resolutions in external affairs, because legislation is more complicated and takes longer time to discuss.



It is clear that the role of the Ash-Shura Council is in continuous development from one term to another. The Council has gradually evolved as regards the decision-making process and it contributes towards enhancing the development of the Kingdom of Saudi Arabia, which makes it one of the primary institutions of the Saudi system.

#### **4.4.11 The Steering Committee**

The Steering Committee of the Ash-Shura Council plays an important role. It is the driving force of the Council and its committees. Within the jurisdictions determined by Article 11, this Committee has the power to perform the following tasks:<sup>83</sup>

1. The preparation of a general plan for the Council and its committees to enable it to realize its duties and achieve its objectives.
2. The preparation of the agenda for the Council sessions and meetings.
3. Making judgments regarding the objections to the contents of the session minutes, the results of voting, the counting of votes or any other objection that is raised in the Council session, and its decision in this regard shall be final.
4. Making necessary rules to regulate the work of the Council and its committees in accordance with the Law and Regulations of the Council.

In addition, the Steering Committee is granted procedural and financial authority over the Council, its members and its employees.<sup>84</sup>

The Steering Committee consists of the Chairman of the Council, his Vice- Chairman, the Secretary General, and the heads of specialized committees. To hold a meeting, the Steering Committee requires a quorum of at least two thirds of its members. Its

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<sup>83</sup> The By-Laws of Majlis Ash-Shura, Article 11.

<sup>84</sup> The Majlis Ash-Shura in the Kingdom of Saudi Arabia, op.cit. p.55.



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decisions depend upon a simple majority of the attending members. In the case of a tie, the Chairman has the casting vote.<sup>85</sup>

#### **4.4.12 The specialized committees**

The Council has the right to create the necessary specialized committees from among its members to exercise the powers within its jurisdiction.<sup>86</sup> Furthermore, each specialized committee is formed of a number of members to be determined by the Council, provided that the number is not less than five. The council should select these committee members from among its members, and choose the head of the committee and the deputy from the formed committee, taking into consideration the members' qualifications and the committees' needs. In addition, the Council should form an ad hoc committee to study certain topics. Moreover, each committee is entitled to form a sub-committee from amongst its members to examine a specific topic.<sup>87</sup>

The Council started its first term with eight specialized committees, but in the second term, owing to the increase in the Majlis' duties and work, it decided to raise the number of committees to eleven. In June 2004, the Majlis extended the duties of some committees to meet the demands of the Kingdom and its citizens. For example, the scope of specialization of the Islamic Affairs Committee was extended to include human rights and the scope of the Social and Health committee was extended to include family affairs. The specialization of the study of citizen petitions was given to the Regulation and Administration Committees. The name of these committees was modified to represent their new specializations<sup>88</sup> as follows:

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<sup>85</sup> Ibid.

<sup>86</sup> The Law of Majlis Ash-Shura, Article 19.

<sup>87</sup> Ibid, Article 22

<sup>88</sup> The Majlis Ash-Shura in the Kingdom of Saudi Arabia, op. cit. pp.43-45.



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1. Islamic Affairs & Human Rights
  2. Foreign Affairs
  3. Social, Health & Family Affairs
  4. Energy & Economic Affairs
  5. Regulation, Administration & Petitions
  6. Financial Affairs
  7. Services, Public Facilities & Environment
  8. Security Affairs
  9. Transport, Communication & Information Technology
  10. The Youth, Cultural & Information Affairs
  11. Educational & Scientific Research Affairs

The duration of the specialized committees is one year, with the head of the said committee, and the deputy, being re-elected or their post being extended for a similar period. Each member may participate in one specialized committee, unless the Council decides otherwise.<sup>89</sup> When appointing a new substitute member, the Council determines the committee that he joins. If the numbers of a specialized committee, for any reason, are less than that imposed by the regulations, the Council chooses one of its members as a substitute.<sup>90</sup>

Committees review whatever is referred to them by the Council or its Chairman, and if the topic concerns more than one committee, the Chairman of the Council decides which committees are the most qualified to review it, or may refer the topic to a

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<sup>89</sup> For more information about the selection of committee members and heads, see the Majlis Ash-Shura in the Kingdom of Saudi Arabia, (Riyadh, published by the Majlis , July, 2004), pp.30-35.

<sup>90</sup> Ibid,p.31.



committee comprising all members of the concerned committees under the supervision of the Chairman of the Council or the Vice- Chairman.<sup>91</sup>

A committee head shall manage its work and speak on behalf of the committee before the Council. If the head is absent, the deputy should replace him, and if the head and the deputy are absent, the eldest member heads the committee.<sup>92</sup> Each committee prepares its agenda on the suggestion of the head of the committee, and issues its recommendations by the majority vote of the attending members. If there is a tie, the head shall cast the deciding vote. Any Council member may express his opinion on any topic that is referred to any of the committees, even if he is not a member of that committee, provided his opinion is presented in written form to the Chairman of the Council.<sup>93</sup>

A specialized committee meets weekly to review the issues in hand. These meetings are not considered valid unless two thirds of the committee members are present. There shall be minutes for each committee meeting stating the date and the venue of the meeting, the number of present and absent members, and a summary of the discussions with the text of its recommendations. The head and the present members shall sign the minutes.<sup>94</sup>

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<sup>91</sup> The By-Laws of Majlis Ash-Shura, Article 27.

<sup>92</sup> Ibid, Article 24.

<sup>93</sup> Ibid, Articles 26 and 28.

<sup>94</sup> Ibid, Article 29



As Table 4.4 shows, the specialized committees have played an important role in the Council. All laws, issues and agreements have to be referred to the committees; therefore, the main work of the Council is undertaken by these specialized committees. The table also indicates that there has been a general increase in the activities of the specialized committees. For example, the number of meetings and the number of issues passed in each committee show a significant increase from the first term to the second and third terms. This increase clearly shows the contribution of the specialized committees to the output of the Majlis. Also, Table 4.4 shows the increase in the number of government officials attending the committee meetings, which can be attributed to the fact these committees depend to a great extent on such officials for information about the issues under discussion.



**Table 4.4 The activities of Specialized Committees 1993–2003**

Specialized Committees	The First Term 1993-97			The Second Term 1997-2001			The Third Term 2001-Dec 2003		
	No. Meetings	No. Passed issues	No. Participants	No. Meetings	No. Passed issues	No. Participants	No. Meetings	No. Passed issues	No. Participants
Islamic Affairs & Human Rights	107	15	7	125	32	63	55	28	115
Foreign Affairs	54	15	3	55	58	28	45	45	84
Social, Health & Family Affairs	102	15	62	117	42	83	64	39	87
Energy & Economic Affairs	126	24	71	96	57	133	51	34	88
Regulation, Administration & Petitions	89	11	9	126	20	28	64	40	43
Financial Affairs	Did not exist			34	12	6	66	33	102
Services, Public Facilities & Environment	81	26	27	83	40	89	37	15	49
Security Affairs	85	29	69	80	30	43	59	31	51
Transport, Communication & Information Technology	Did not exist			46	12	26	51	16	52
Youth, Cultural & Information Affairs	Did not exist			33	11	33	46	18	14
Educational & Scientific Research Affairs	112	14	23	50	18	30	53	18	23
Total	756	149	271	845	332	562	591	317	708

Researcher s' calculation; source: the Majlis Data Archive



#### **4.4.13 The duration of the Council's term**

The duration of the Council's term is four (Hijrah) years of the Arabic calendar. Each term begins on the date mentioned in the royal decree specifying the formation of the Council. The new Council shall be formed at least two months before the expiry of the previous one. Should the Council's term expire before the formation of the new one, the previous Council shall continue working until the new Council is formed. According to Article 13 of the Council's regulations, at least half of the Council members shall be designated at the formation of the new Council.<sup>95</sup>

#### **4.4.14 The General Secretariat**

The Secretary General shall attend the Council's sessions and the meetings of the Steering Committee. He can supervise the taking of minutes and announce the schedule and agenda of the sessions to the members. He should perform all the duties assigned to him by the Council, Steering Committee or the Chairman of the Council, and is accountable to the Chairman of the Council for all financial and administrative affairs.<sup>96</sup>

#### **4.4.15 The Council's head office**

The Council is located in Riyadh. According to Article 12 of the Council's regulations, the Council may meet anywhere inside the Kingdom on the direction of the King.

The Council has purpose-built premises in the northwest of Riyadh. The building occupies a total area of 138,000 square metres, and is built according to the architectural design that combines originality and the Islamic style. The Council Building is one of the Saudi capital's cultural landmarks.

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<sup>95</sup> The Law of the Majlis, Article 13.

<sup>96</sup> The By-Law of the Majlis, Article 7.



#### **4.4.16 The Council's relationship with the wider society**

In order to serve the public the Council establishes its relationship with citizens through different channels. A special committee has been set up to receive and study the petitions and proposals of citizens and consider their ideas and views. This committee serves as a liaison body between the Council and citizens by studying the petitions and taking necessary action in light of the Council's rules and regulations. In addition, the Council has started a weekly radio programme for the public transmitted by the local Saudi radio station. A number of its weekly debates are televised in a drive to establish political awareness and transparency and strengthen the relations between the Council and civil society.

The Majlis allows citizens of both sexes to visit its head office, attend the open sessions and listen to the deliberations of issues submitted with the aim of familiarizing them with its work. The Council chambers are provided with public galleries so that visitors can follow the deliberations of the Ash-Shura Council.

The Ash-Shura Council has been a primary supporter of women's rights and empowerment despite the fact that, at present, there are no female members of the Ash-Shura Council. The Council has addressed this by engaging women's groups and inviting them to committee discussions and Council debates whenever there is a discussion of issues concerning them. An indicative marker of the Council's interest in, and support for, women's issues are the following set of sample decisions recently passed by the Council.<sup>97</sup>

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<sup>97</sup> The Majlis Archive, 2003.



In June 1998, the Council called for the opening up of more opportunities for women in government employment.<sup>98</sup> In March 1999, the Council called for an upgrade of women's colleges to the level of universities, a review and reform of women's vocational centres and an increase in enrolment for disabled females by opening new academic and specialized programmes.

In June 2000, the Council voted on a draft law concerning the early retirement of women in government and the civil services.<sup>99</sup> In 2002, the Council called for an increase in the areas of specialization that are offered to women in Saudi universities. Most importantly, it ratified the standard on the elimination of all forms of discrimination against women, in accordance with Islamic teachings.<sup>100</sup>

In summary, the Council's relationship with the wider society is evolving during all three terms of the modern Majlis, but still the relationship is weak and there is a need to strengthen the relations between the Council and civil society. Some aspects of the Council's relationship with Saudi citizens will be discussed in Chapter 6 and some recommendations will be provided at the end of this study to strengthen the relations between the Council and Saudi citizens.

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<sup>98</sup> The Majlis Archive, the annual report for the year 1998.

<sup>99</sup> Ibid, the annual report for the years 1999 and 2000.

<sup>100</sup> Ibid, the annual report for the year 2002.



## 4.5 Conclusion

This chapter has traced the adoption of the principle of Ash-Shura in the Kingdom of Saudi Arabia, which began more than two centuries ago. It is apparent that the practice of Ash-Shura during the first (1744–1818) and second (1840–91) Saudi States has continued to exist up to the time of the third Saudi State, and became the unique feature of the Saudi ruling system. Ash-Shura was implemented in the first and second Saudi State in a primitive way and in a simple form, where there was no formal or permanent Majlis or Council. Subsequently, the applications of Ash-Shura in the third Saudi State advanced and became institutionalised, especially after King Abdulaziz took control of the Hijaz area in 1924, and established the first official Majlis for consultation called the Majlis Al-Ahli (the Domestic Council). Since then, several Majlis for Ash-Shura have been established. The scope of these Majlis include both legislative and executive powers, in addition, the jurisdiction of the Majlis extended to include a wide range of authorities. Most importantly, it was empowered to review and approve the budgets for governmental departments and to oversee the government and alert it to any mistakes.

In 1953, the power of the Majlis began to decline as a result of the establishment of the Council of Ministers, which took over most of the Majlis' jurisdiction and embodied the legislative and executive authorities. The re-establishment of the Majlis Ash-Shura in the Kingdom in 1992 reflected a new era in the progress of the Saudi Ash-Shura experience. It contributes towards enhancing citizen participation in the decision-making process and development of the Kingdom of Saudi Arabia, which makes it one of the primary institutions of the Saudi system.



The study of modern Saudi Majlis Ash-Shura members during the three terms of the Majlis shows that they consist mainly of older than the middle-aged, highly educated people in different fields of specialization, with 81 per cent of them having had long academic or government experience.

In conclusion, it is clear that the Ash-Shura Council is in continuous development in its functions and structure from one term to another, and has become compatible with other modern councils and parliaments in the manner in which it functions.



## **Chapter Five: The Legislative Function of the Majlis at Domestic Level**

### **Introduction**

This chapter will address the legislative function of the Saudi Majlis Ash-Shura. at domestic level. The Majlis' legislative function, as performed according to its Law, will be investigated and identified according to the Majlis' actual experience in order to determine the extent of the effectiveness of this function and to shed light on the obstacles which might be hampering its fulfillment of this role.

### **5.1 The Legislative Function**

The Council performs its legislative function<sup>1</sup> through four main authorities. In the following, these authorities are discussed and analysed to show how they are performed:

- Proposing and drafting new laws and amending existing ones.
- Studying and reviewing laws and by-laws referred to it by the government.
- Interpreting laws.
- Approving laws.

#### **5.1.1 Proposing new draft laws and amending existing ones**

This is an original legislative function through which the Council itself can initiate and draft new laws, and amend current ones, without waiting for a request from the government. This allows the Council to participate in the decision- making process, develop policies and pass legislation in economic and social fields.

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<sup>1</sup> The legislative functions of Majlis Ash-Shura described on the Law of the Majlis: Article 15, sections b&c and Articles 17,18&23.



In general, initiating proposals is the first legislative work to be carried out by Ash-Shura Council, since the draft law has no legal existence before it is proposed. It is likely that all comparative political systems agree on giving the executive authority and the members of the legislative authority the right to propose and draft new law.<sup>2</sup>

The right to propose and draft new law in the Kingdom of Saudi Arabia is similar to that practised in other countries. This right is possessed by three bodies: the King, the members of the Council of Ministers and the members of the Majlis Ash-Shura. Article 23 of the Law of the Majlis gives each of its 10 members the right to propose a new law or amend an existing one, and submit it to the Chairman of the Majlis, who in his turn submits it to the King.<sup>3</sup>

It should be noted that the right of Majlis Ash-Shura to propose a new law places no restrictions on the issues that the Council can propose; this is a sound method, which agrees with the principle of Ash-Shura in Islam. This principle allows Ash-Shura people to practise their rights in providing consultations to the ruler (head of state) without any limits or barriers to be put in front of them or restrict their specialties.

When contrasting the rights of the Council of Ministers with those of the members of Majlis Ash-Shura, it is noted that the Ministers have the right to propose laws and by-laws, while the members of the Majlis have the right to propose laws only, despite their right to study by-laws. The researcher believes that this approach might be correct because the executive authority, represented by the Council of Ministers, is the authority most capable of preparing draft by-laws owing to its long experience in this field.

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<sup>2</sup> Sulaiman, Abdul Majeed, *Ash-Shura in Islam and its Contemporary System in the Kingdom of Saudi Arabia, a comparative study*, (Dar Al Nahdah Al Arabia, 1994), p.223. (Arabic)

<sup>3</sup> This article was amended recently, see the following pages.



The right of the Majlis members to propose new draft laws or amend current ones raises the following question: To what extent do the Majlis members practise these rights?

In order to answer this question, the Council's documentations and records have been scrutinised in order to record the number of proposals brought up by Majlis members during the period in which the study is based (1993-2003). The data gathered, for the first time, as shown in Table 5.1, compares the number of draft laws proposed by Majlis Ash-Shura with those proposed by the government and referred to the Majlis.

**Table 5.1 The legislative activity of the Majlis Ash-Shura and the government in proposing laws, 1993-2003**

Term /Year	Law Proposed by the Majlis	Percentage	Law Referred by the Government	Percentage	Total
1/1	6	42.86%	8	57.14%	14
1/2	5	18.52%	22	81.48%	27
1/3	4	22.22%	14	77.78%	18
1/4	7	23.33%	23	76.67%	30
<sup>1st</sup> term total	22	24.72%	67	75.28%	89
2/1	7	30.43%	16	69.57%	23
2/2	5	38.46%	8	61.54%	13
2/3	7	25.93%	20	74.07%	27
2/4	3	07.14%	39	92.86%	42
<sup>2nd</sup> term total	22	20.95%	83	79.05%	105
3/1	1	07.69%	12	92.31%	13
3/2	3	06.82%	41	93.18%	44
<sup>3rd</sup> term total	4	07.02%	53	92.98%	57
<b>Total</b>	<b>48</b>	<b>19.12%</b>	<b>203</b>	<b>80.88%</b>	<b>251</b>

*\*Percentage was calculated in relation to the total*

Researcher s' calculation; source: the Majlis Data Archive

From the above table, it can be seen that the majority of the draft laws studied by Majlis Ash-Shura were referred to it by the government. The proportion of the draft law referred by the government to the Majlis constitutes 81 per cent of the laws studied by the Majlis, whereas the proportion of drafts proposed by the members of Majlis Ash-



Shura is only 19.12 per cent. Moreover, the number of laws proposed by the members of Majlis Ash-Shura as opposed to the laws and by-laws they approved during the first term (1993-1997), was 24.72 per cent. During the second term (1997- 2001) this percentage dropped to 20.95 per cent, and further dropped to 7.2 per cent during the first two years of the third term. This percentage, despite being low, exceeded the average percentage in most countries of the world as regards the proposal of laws by parliament members, compared to the total number of laws proposed by the government, which does not exceed 5 per cent.<sup>4</sup>

In addition, the Table 5.1 shows the excessive legislative activity of the government during the three terms of Ash-Shura Council, which coincided with a decrease in the legislative activity (proposing laws) of the Council. This demonstrates the limited role played by the Council in the field of legislative initiatives in comparison with the legislative initiatives of the government.

#### **a. Reasons for the low level of legislative initiatives of the Majlis**

The researcher sought answers to this paradox, largely through interviews. One interviewee justifies the reasons behind the increase in the percentage of laws drafted by the government compared to those presented by the Majlis Ash-Shura, by the government's abilities, long experience, and the technical means required to perform these functions. He added that this phenomenon is found in most countries of the world, where the executive authority is the primary source of draft laws that are presented to - Ash-Shura or parliamentary councils.<sup>5</sup>

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<sup>4</sup>Baaklini, Denoeux, and Springborg: *Legislative Politics in the Arab World, the Resurgence of Democratic Institutions*, (London: Lynne Rienner Publishers ,1999), p.103.

<sup>5</sup>An interview with H.E.Dr Muttlab Al-Nafissah, Minister of State and a key member of the Council of Ministers, and a member of the committee, which consists of 10 members, that wrote the Basic Law of government and the Law of the Majlis Ash- Shura, Riyadh, 24 /5 /2003.



This view is supported by the results of a study conducted by Dr Wahba on the legislative performance of Arabic legislative Councils. This study indicates the existence of a phenomenon common to these councils, regarding the dominance of draft laws presented by the governments over proposals submitted by the members of legislative councils.<sup>6</sup>

The lack of legislative initiatives from the Council members can be attributed to the existence of obstacles presented by the Council law itself. Article 23 of the Council law stipulates that, any proposal for a new law or the amendment of a current one must be submitted to the Chairman of the Council, who in his turn submits the proposal to the King for approval. Only after the King has approved the proposal, can the members draft the law. This causes the Council legislative initiative to pass through many stages and take a longer time, which negatively affects the initiative of the Council members. This is clearly shown in the decreased rate of legislative initiatives of the Ash-Shura Council.

#### **b. Views of the Majlis members on amending Article 23**

In order to elicit the views of the members of Ash-Shura Council regarding Article 23 of the Council law, the researcher asked them about the importance of amending this article to allow the Council to issue its proposals directly. As shown In Table 5.2, the majority (92 per cent) of respondents agreed or strongly agreed that this article should be amended to allow the Council to study and issue its proposals directly and effectively. A small proportion (4 per cent) of the respondents disagreed or strongly

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<sup>6</sup>Wahba, Izzat: Legislative Performance of Arabic Legislative Councils, a paper addressed to the Symposium on Arab Parliamentary Development, Beirut, 16<sup>th</sup>-18<sup>th</sup> May 2000. (Online) Available from <http://www.Pogar.org/publications/legislature> (accessed on 18/2/2002).



disagreed on amending the article. This confirms that the majority of the members see amending Article 23 as an important way to give the Council more authority to study the law proposals and make direct initiatives without waiting for the approval of the King.

**Table 5.2 Article 23 needs to be amended in order to give the Majlis the authority to study and issue its suggestions directly**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	4	3.2	3.3	4.1
	Do not know	1	.8	.8	5.0
	Agree	31	24.8	25.6	30.6
	Strongly agree	84	67.2	69.4	100.0
	Total	121	96.8	100.0	
Missing		4	3.2		
Total		125	100.0		

### **c. Amendment of Article 23**

During the drafting of this research, an amendment was made on December 2003 by Royal Order to Article 23, in an attempt to correct the legislative disorder. As a result of the amendment, Article 23 of the Council law now stipulates that the Ash-Shura Council has the right to propose new draft laws, amend ineffective ones, and study proposed laws inside the Council. In his turn, the Chairman has to raise the resolutions of the Council concerning new draft laws to the King.<sup>7</sup> The amendment to the aforementioned article is consistent with the findings of the research, confirming the validity of the methodology followed by the researcher.

Dr Marzougi considers the amendment to Article 23 of the Council law to have removed an inconsistency that had for a long time affected the legislative structure in Saudi Arabia. That is because there was no legislative authority to undertake the

<sup>7</sup> Al Hayat newspaper, Issue no, 14860, dated 1/12/2003), p.3.



initiative of putting forward a draft and an amendment with a resolution issued, as a result from it. Previously, the legislative authority started with proposals initiated by the executive authority, these proposals then took their course of being studied by the legislative authority (the Majlis Ash-Shura). The legislative authority relied mainly on that which was referred to it by the executive authority. Therefore, this amendment has turned the Majlis Ash-Shura into a complete legislative authority that takes its own decisions by creating or initiating new draft laws and amending ineffective ones.<sup>8</sup> It is noted that the new text of Article 23 is not conditional upon the agreement of 10 members in order to adopt a new draft law or amend a current one. Such flexibility had not been witnessed before.

The researcher believes that this amendment is very important and has strengthened the legislative role of Ash-Shura Council and put it in the same rank as the Council of Ministers regarding the issuance and amending of laws. The amendment has given the Council the right to take its own initiatives without waiting for legislative initiatives to be referred by the executive authority. The researcher believes that this is a positive step on the part of the Saudi political leadership as part of its efforts to widen the legislative authorities of the Council, in a way that enables it to contribute in putting in place new laws that deal with many internal or external issues that are vital to the Saudi citizen. Such a step will have both direct and indirect effect on the Kingdom of Saudi Arabia. The Saudis are optimistic and hopeful regarding the Majlis Ash-Shura, as was apparent from a survey conducted by the Al Watan newspaper.<sup>9</sup> This surveyed 855 Saudi citizens in different parts of the country and of different social backgrounds and professions. The majority of the respondents wished the Council to introduce more reforms to the country, put in place strict laws for the protection of public money and address

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<sup>8</sup> Marzougi, Mohamed, Al-Riyadh newspaper, issue no. 12943, 1/12/2003, p.12.

<sup>9</sup> Al-Watan newspaper, issue no. 238, dated May 25, 2001, p. 14.



administrative corruption and duality in administration. In spite of the importance of this amendment, it still restricts the right of Ash-Shura Council to legislative initiation only. In other words, the authorities are confined to proposing new laws and amending existing ones, but do not give the Council the right to propose general issues for discussion in the Council.

### **5.1.2 Reviewing of draft laws referred by the government**

The role of the Majlis, in studying and reviewing of the draft laws and by-laws referred by the Prime Minister (the King) represents an important aspect of the legislative process in the Kingdom of Saudi Arabia. It is stipulated that the government shall obtain the opinion of the Majlis on any draft law before issuing it. This role, played by the Majlis Ash-Shura, is considered as a practise of the principle of Ash-Shura in Islam, which requires the ruler (the head of state) to seek consultation with and advice from experts and specialists before making his own decisions regarding issues that affect the public.

According to Article 12 of the Majlis law, it is obligatory that the government present laws, treaties, international agreements, concessions and amendments thereof, to the Majlis Ash-Shura for study, before issuing them by Royal Orders. One member of the Majlis who was interviewed said that, on the basis of his own practical experience, the Council practises its role in studying and reviewing laws effectively. He believed that the Council has succeeded to a great extent in that role as opposed to other roles.<sup>10</sup>

Dr Al Hilwa, another member of the Council, believes that the role of the Council in studying the laws initiated by the government is an important one, which enables the Council to partner the Council of Ministers in the decision- making process. He adds

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<sup>10</sup>An interview with the Majlis Ash- Shura member Dr Abdul Aziz Al, Thinayan, Riyadh, 13/7/2003.



that, “the partnership of Majlis Ash-Shura with the Council of Ministers in drafting laws and in studying them, has distinguished the decision- making mechanism in the Kingdom of Saudi Arabia from other countries”.<sup>11</sup>

Dr Hashim Abdu Hashim, a former member of the Council, explains that the process of studying laws and by-laws in the Council goes through many legislative stages.<sup>12</sup> According to his views and the observations these stages are as follows:

- a. The Prime Minister sends the draft law or by-law to the Chairman of Ash-Shura Council.
- b. The Chairman of Majlis Ash-Shura refers the draft law to the steering committee of the Council, which consists of the Council committee heads, and is chaired by the Chairman of the Council with the participation of Vic-Chairman in the presence of the Secretary General of the Council. The steering committee undertakes the classification of the laws and distributes them to the different committees according to their specializations. During the general sessions the Secretary General of the Council notifies the rest of the Council members of the topics coming from the government and the actions taken with reference to the specialized committees.
- c. The specialized committee distributes the draft law among the committee members for study, in preparation for an exchange of views with other members during the weekly meeting of the committee. If required, the concerned committee calls persons who have some connection with the topic under discussion to participate whether these persons be government officials, businessmen or professionals such as lawyers or doctors of medicine. Once this consultation has been completed, the committee raises

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<sup>11</sup> An interview with Ash- Shura Council member, the head of the Foreign Affairs Committee, Dr Mohamed Al Hilwa, 10/5/2003.

<sup>12</sup> Hashim abdu Hashim, “My Consultative Experience,” Okaz newspaper, 16/2/2002, p.10.



its report to the Chairman of the Council, who, in his turn, refers it to the Council to be added to the agenda prepared by the Secretary General.

The Council possesses the final decision as regards approving, disapproving or amending draft laws prepared by the government. Despite this, the committees, through their reports and recommendations, to the Council, play an important role in affecting the resolution adopted by the Council. In most cases, the Council adopts the recommendations raised by the committees. Moreover, most of the discussions that take place inside the Council focus on the reports and recommendations of the committees. They derive their importance from being issued by the committees, whose members are specialists. The committee has the right to approve, amend, delete part of individual articles of a law, or replace them with other articles or even add new articles to the law according to the public interest.

d. The Council, in its sessions, then discusses the report of the specialized committee regarding a draft law until the required resolution is reached. It has been noticed that the discussions regarding draft laws are conducted in open sessions except when confidential issues are under discussion. This is quite contrary to the discussions taking place in the specialized committees, which tend to be secret as stipulated by the internal by-laws of the Council. It has also been noted that the Council, at the beginning of its discussion of the draft of any law, casts a vote on whether it is necessary to issue the law or not. If the Council approves the issuance of a law, it then begins to discuss its draft article by article and casts a vote. Dr Hashim<sup>13</sup> explains that draft laws go through serious and extensive discussions where the Council members propose different views that have not been raised by the concerned committee members. This is natural, as the views of 8 or 10 members cannot be as comprehensive as they would be if the issue

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<sup>13</sup> Ibid, p.10.



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were discussed by all the Council members. The committee head records the important notes and views expressed by Council members. When the discussions end, the Chairman of the Council asks the head of the committee to give his views on the ideas discussed. Normally, committee heads ask for respite or a delay of one or two sessions to allow the committee to convene and prepare the reply. After the committee members discuss the law, they vote for their recommendations. If the recommendations gain the required majority of votes, they are approved. If they fail to win a majority vote, alternative recommendations are presented by some of the members for consideration. Dr Hashim<sup>14</sup> indicates that what generally happens is the consideration of most of the recommendations presented by the committee, with a high percentage (normally exceeding 90 per cent) being passed.

e. Once the Council has completed the study of a draft law or by-law and made all the necessary amendments and additions, it issues a resolution to that effect. Through its Chairman, the Council forwards its resolutions to the head of state (the King) who decides which ones should be forwarded to the Council of Ministers for studying. If the views of the two Councils (Ash-Shura and the Ministers) agree on the law, the law is issued after approval by the King, If, however, there is disagreement between the views of the two Councils, the law or the topic under consideration is returned to the Majlis for reconsideration and also forwarded to the King for his decision.<sup>15</sup>

To ascertain the views of Ash-Shura Council members regarding the suitability of the legislative stages adopted by the Council, a statement was placed in the questionnaire.

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<sup>14</sup> Ibid, p.10.

<sup>15</sup> The Law of Majlis Ash-Shura, Article 17.



The responses are shown in Table 5.3, where 74 members constituting 59.2 per cent showed their satisfaction regarding the legislative stages adopted by the Council. However, 39 members, (31.2 per cent) expressed dissatisfaction with the legislative stages adopted by the Council.

**Table 5.3 “The legislative stages adopted by the Majlis are suitable”**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	38	30.4	31.1	32.0
	Do not know	9	7.2	7.4	39.3
	Agree	71	56.8	58.2	97.5
	Strongly agree	3	2.4	2.5	100.0
	Total	122	97.6	100.0	
Missing		3	2.4		
Total		125	100.0		

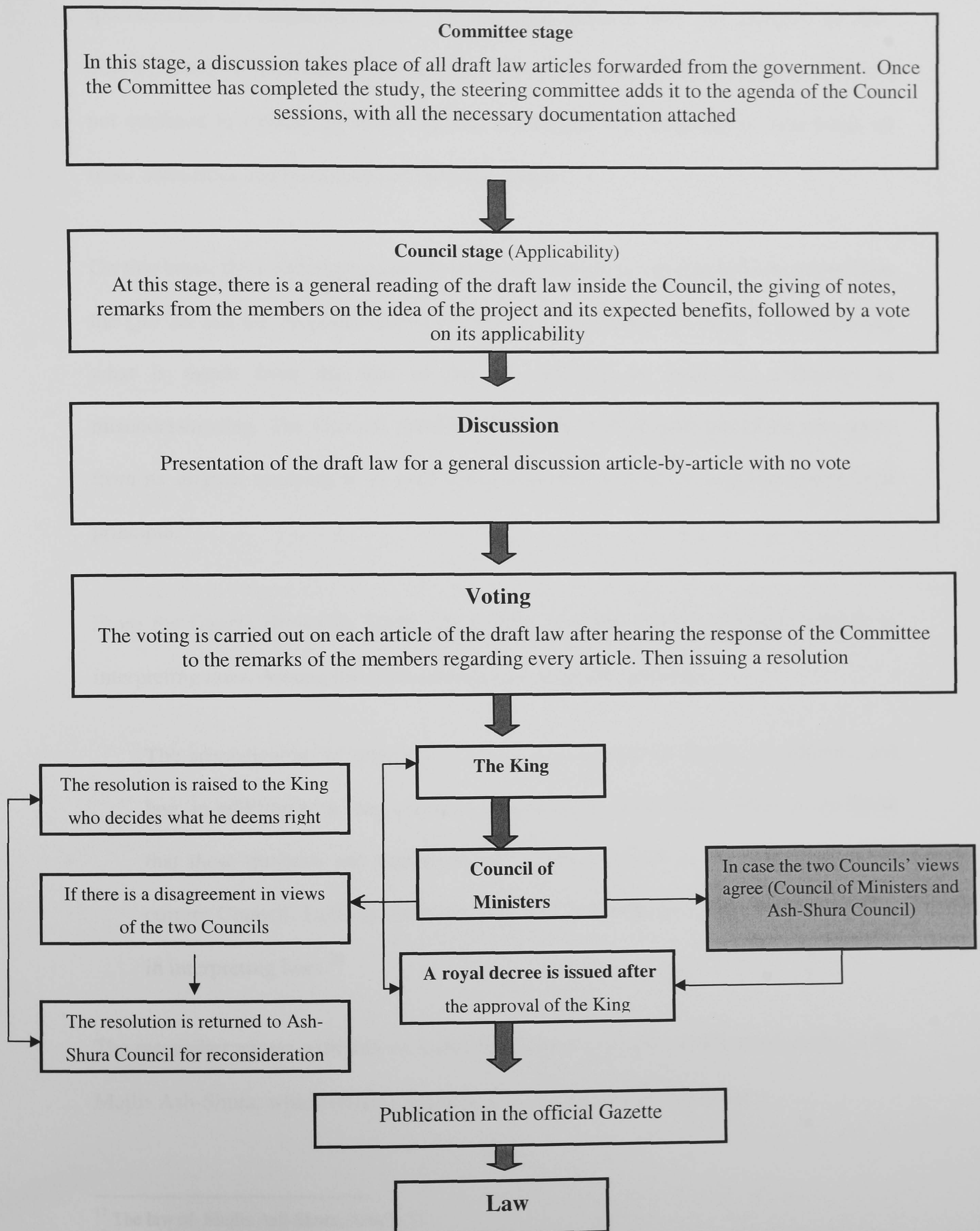
Al-Saud concluded that there are organizational and procedural shortcomings regarding the organization of the sessions, meetings, styles of discussion, and decision-making methods. “The most notable of the above shortcomings are the failure to schedule the agenda of the Majlis’ meeting at the appropriate time before the beginning of the sessions and the inability to make use of the valuable views and ideas that appear during the debate and drafting them in the form of specific recommendations. In addition, the longer deliberations of some members, wastes much time in the discussions and there is a delay also on the part of the Council in developing a discussion procedure and a system for decision-making.”<sup>16</sup>

Figure 5.1 describes the stages of the legislative process in the Majlis Ash-Shura from its beginning through to the issuance of law by the King.

<sup>16</sup> Al-Saud , Faisal, Islamic Political Development in the Kingdom of Saudi Arabia, Majlis Ash-Shura: Concept, Theory and Practice, (National Association of Muslim American Women Inc. Sarawat Designers &Printers, 2002), p.158.



**Figure 5.1** The stages of making legislation in the Majlis from the beginning through to the issuance of law by the King



Source: The Majlis Ash-Shura in the Kingdom of Saudi Arabia, (published by the Majlis, July 2004).



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### 5.1.3 Interpretation of Laws

Compared to other Arab Shura Councils, the Saudi Council is unique with regard to its specialization in interpreting laws.<sup>17</sup> Dr Sulaiman believes that “the authority of Ash-Shura Council in interpreting law is quite clear. This confirms that such an authority is not confined to expressing views. Rather, it provides the interpretation that binds all other authorities and institutions of the government”.<sup>18</sup>

On this basis, the Council practises its responsibilities in a way that directly stems from the *Qur'an* and the Prophetic *Sunnah* (traditions). It confines its mission to explaining what is meant from the text of the law, leaving no room for ambiguity or misunderstanding. The Council should interpret the law without taking the text away from its original meaning or in such a way that may lead to the creation a new legal principle.<sup>19</sup>

From the figures shown in Table 5.5, it may be noted that the Council is weak in interpreting laws. Among the interviewees, one specialist remarked:

The specialization of interpreting laws needs experts in *Sharia*, jurisdiction and law, in addition to a long practical experience in these fields. There is no doubt that these qualities and qualifications are not available in the formation of the current Council. Lacking these qualities does not help the Council to be effective in interpreting laws.<sup>20</sup>

The researcher agrees with this view and thinks that this is one of the weak points in the Majlis Ash-Shura, which reflects negatively on its legislative efficiency.

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<sup>17</sup> The law of Majlis Ash-Shura, Article 15.

<sup>18</sup> Sulaiman, op. cit, p.238.

<sup>19</sup> Ibid, p. 240.

<sup>20</sup> An interview with a government official who asked to remain anonymous, Riyadh, 25/5/2003.



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Concerning the above point, a statement was included in the questionnaire regarding the impact of increasing the number of *Sharia* and legal specialists among the members on raising the legislative efficiency of the Council. The researcher found that 69 members (55.2 per cent) of a total of 125 believe in the importance of increasing such specialized groups. However, 44 members do not see any necessity for increasing the number of members specialized in these fields. These findings will be discussed in detail at the end of Part One of this chapter, when the obstacles that hinder the effectiveness of the legislative function of the Council are analysed.

#### **5.1.4 Approving draft laws and by-laws**

Once the Council has completed its study of the draft laws and by-laws it passes a resolution on the subject and sends it to the Prime Minister's office whence it is forwarded it to the Council of Ministers for consideration. If the views of the two Councils coincide, the resolution is issued after the approval of the King. In the event of a disagreement between the two Councils, the King decides on what he deems appropriate.<sup>21</sup>

This role of the Majlis Ash-Shura raises the following two major questions regarding the process of deciding upon draft laws:

- Is the resolution reached by Majlis Ash-Shura binding or not?
- Does the issuance of a resolution from Majlis Ash-Shura approving a draft law or by-law mean that the draft has passed the legislative stages and nothing is left except the approval stage and the issuance of an order from the head of state (the King)?

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<sup>21</sup>The Law of Majlis Ash-Shura, Article 17. This article was amended on 1/12/2003. It stipulates after the amendment that the resolutions of Majlis Ash-Shura are to be raised to the King directly to decide which are to be forwarded to the Council of Ministers. If the views of the two Councils agree, resolutions will be issued after the approval of the King. If the views do not agree, the issue will be returned to the Majlis Ash-Shura for reconsideration and raised again to the King to decide on what he deems appropriate.



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There is an important point, which needs to be explained before these questions are discussed. The Ash-Shura system of the Kingdom of Saudi Arabia has adopted the resolutions method of expressing its views after discussing laws, by-laws and other issues that come under its jurisdiction. This is contrary to some of Ash-Shura Councils in other Arab countries, which have adopted the procedure of presenting the recommendations or proposals to the head of state.<sup>22</sup>

According to the Majlis Ash-Shura law, it has the right to issue resolutions that are supposedly binding, which is not the case for recommendations that are not binding.

Also, Dr Saleh Bin Humaid, the Chairman of Majlis Ash-Shura believes that the resolutions of the Council have force:

The resolutions of Majlis Ash-Shura have the same power of those of the Council of Ministers, which cannot be final, until the Majlis approves them. In the case where there is any disagreement between the views of the two Councils: Ash-Shura and Ministers, nobody has the authority to cancel the resolutions of Majlis Ash-Shura except the King.<sup>23</sup>

He added:

Usually, the King does not resort to the cancellation of the Majlis Ash-Shura resolutions, but he may do so when appropriate. This happened on three occasions of dispute between the two Councils where the King did not use his authority to cancel the Majlis' resolutions; instead, he referred them to the Majlis Ash-Shura for reconsideration with the presence of the concerned Ministers, who in the end reached a resolution approved by the two Councils.<sup>24</sup>

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<sup>22</sup>Sulaiman, Ash-Shura in Islam and its Contemporary System in the Kingdom of Saudi Arabia, a comparative study, op. cit, p. 255.

<sup>23</sup> Bin Huamid, Saleh, the Chairman of Ash-Shura Council, news release, Okaz newspaper, 25 /2/2003.

<sup>24</sup> Ibid.



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An academic specialist who was interviewed by the researcher thinks that the nature of the resolutions of the Majlis does not have the final binding power in the Kingdom, which limited its authority and turns it into an advisory Council rather than a legislative one. The reason is what he calls “the jurisprudence issue”. This issue is represented in the difference of opinion between the two schools of Islamic jurisprudence focusing on whether the result of Ash-Shura (consultation) is obligatory for the Islamic ruler (head of state) or advisory. He added: “Seeing Ash-Shura Council resolutions as advisory to the ruler weakens its position in the Saudi political system and makes its resolutions as recommendations that do not bind the ruler”.<sup>25</sup>

However, another member of Ash-Shura Council who was interviewed believes that the binding nature of resolutions is not available even in countries with a long history of parliament and with large authorities such as the American Congress. It is known that any resolution issued from legislative Councils is not binding unless it goes through all the stages stipulated in the constitution of the country.<sup>26</sup>

Saleh Bin Humaid, the Chairman of Majlis Ash-Shura, explains the nature of Ash-Shura as applied and practised in the Kingdom of Saudi Arabia as follows: Issuing a resolution on a certain issue or topic, after exchanging views, deliberations and hearing the views of the Council members, in a way that is consistent with the origins of the Islamic *Sharia* and not contradictory to it.<sup>27</sup> In conclusion, he said:

The Council provides Ash-Shura, in a form of a resolution that has its mechanism for its issuance and channels through which the resolution becomes an active law that has its force in the country.” The Chairman replies to those who think that

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<sup>25</sup> An interview with a Saudi academic specialist who asked to remain anonymous, Riyadh, 14 /6/2003.

<sup>26</sup> An interview with Council member Dr Mohamed Al Hilwa, Riyadh, 10 /5/2003.

<sup>27</sup> Bin Humaid, Saleh, Ash-Shura and Democracy a Modern View and the Experience of the Kingdom of Saudi Arabia, (alecture at the First conference for Arab intellectuals, Cairo, 27-29/10/2003), p. 22.



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Ash-Shura Council is only a consultant council that provides advice and consultations to the head of state by saying: “In fact, this is a misunderstanding of the nature of the function of Ash-Shura Council since the Council studies laws, by-laws, agreements and government performance reports and discusses government plans. In all these affairs it makes complete and comprehensive resolutions that are carefully and exactly studied in a similar way to parliamentary council’s in other countries.”<sup>28</sup>

One of the interviewed ministers confirms the importance of Ash-Shura Council resolutions by saying: “The resolutions of Ash-Shura Council receive a moral and legal appreciation inside the Council of Ministers”. He added, “the Council of Ministers applies many of the resolutions of Ash-Shura Council, and it is hardly ever that the Council of Ministers amends these resolutions. And if the Council of Ministers makes amendments, they are normally minor and made for practical reasons. While the members of Ash-Shura Council are keen to see that the resolutions are highly and tightly formed, the Ministers think of the extent of their abilities to execute these laws. For this reason, minor amendments sometimes appear on the resolutions of Ash-Shura Council”.<sup>29</sup>

In reality, a resolution of the Majlis Ash-Shura has a legal and a moral weight and power, but owing to the nature of the composition of the Kingdom’s legislative authority, it does not have the final binding power. As was mentioned in Chapter Three, the two Councils, the Majlis Ash-Shura and the Council of Ministers, share in this authority; but the King alone has the power to issue laws. Thus, the issuing of a resolution by the Majlis Ash-Shura is a primary stage in the legislative process and such

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<sup>28</sup> Ibid, p. 22.

<sup>29</sup> An interview with H.E.Dr Muttlab Al-Nafissah, Minister of State and a key member of the Council of Ministers, and member of the committee, which consists of 10 members, that wrote the Basic Law of government and the Law of Majlis Ash-Shura, Riyadh, 24 /5/ 2003.



it is an equal power to a resolution of the Council of Ministers. Despite the fact that the Majlis legislative resolutions are not binding, practical experience indicates that these resolutions have gained the acceptance of the King and the government, and the majority of the Majlis' legislations, which number 203 during 3 terms, have been adopted. This was ascertained as a result of studying the Council's documentation and resolutions.

**Table 5.4    The Majlis' legislative resolutions, 1993-2003**

Term/year	Legislative Resolutions
1/1	8
2/1	22
3/1	14
4/1	23
<sup>1st</sup> term total	67
1/2	16
2/2	8
3/2	20
4/2	39
<sup>2nd</sup> term total	83
1/3	12
2/3	41
<sup>3rd</sup> term total	53
Total	203

\*Percentage was calculated in relation to the total

### 5.1.5    Evaluating the effectiveness of the legislative function

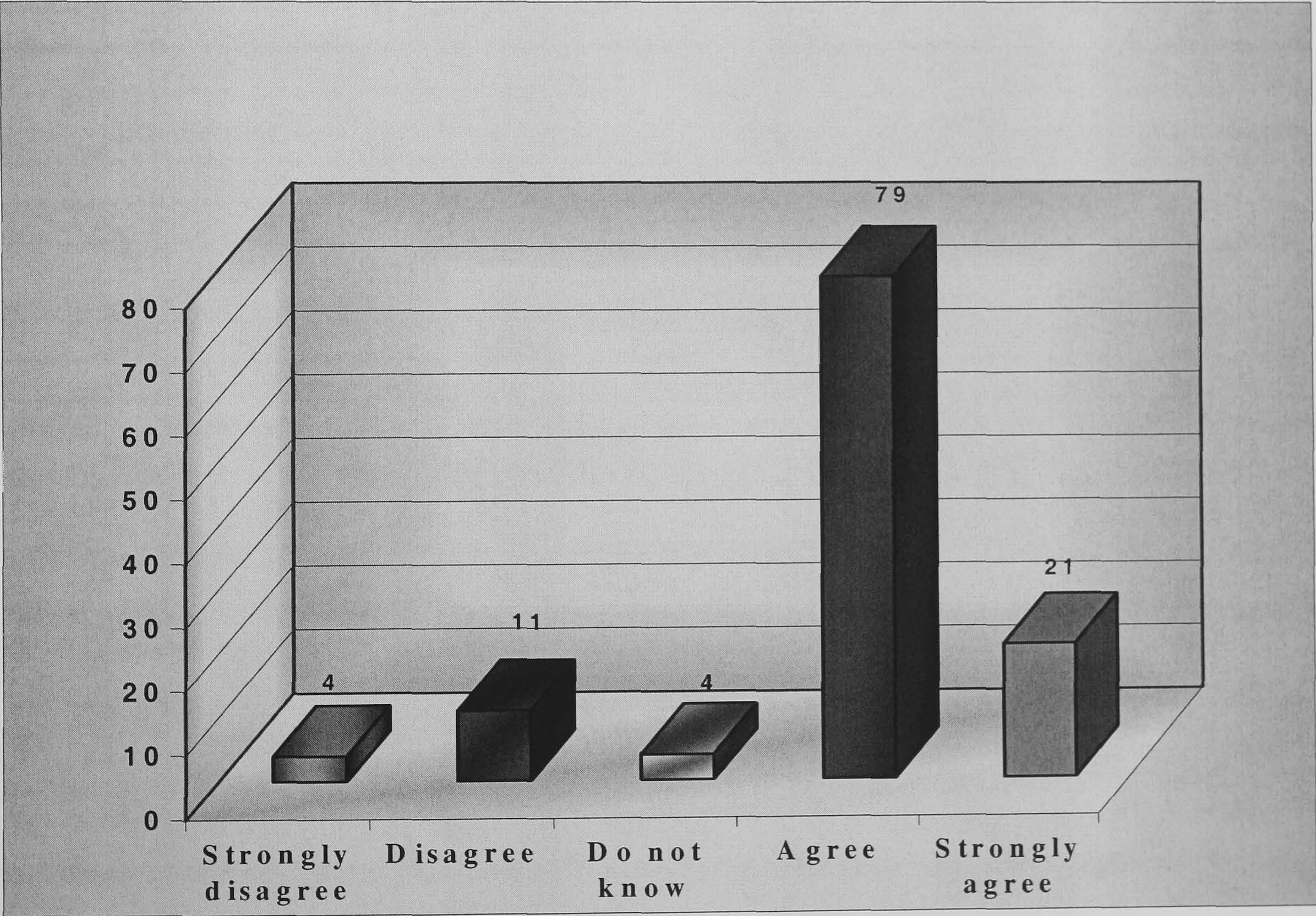
In this section, the extent to which the legislative function of the Majlis Ash-Shura is effective will be evaluated from the members' point of view. The members were asked to express their views regarding the extent of the efficiency of the legislative function of the Council. Table 5.5 shows that the great majority of respondents (80 per cent) agreed or strongly agreed that the Majlis is playing an effective legislative function. However, 12 per cent of the sample said that the legislative function of the Council as ineffective. These answers give a clear indication of the efficiency of the legislative function of the Majlis Ash-Shura.



**Table 5.5** The legislative function of the Majlis Ash-Shura is effective

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	4	3.2	3.4	3.4
	Disagree	11	8.8	9.2	12.6
	Do not know	4	3.2	3.4	16.0
	Agree	79	63.2	66.4	82.4
	Strongly agree	21	16.8	17.6	100.0
	Total	119	95.2	100.0	
Missing		6	4.8	3.4	
Total		125	125	100.0	9.2

**Figure 5.2** Distribution of Council members according to their Evaluation of the effectiveness of the legislative function



The statistics in Table 5.6, prepared from the records and statistics of the Council, indicate that the level of the Council’s achievement in the legislative field confirms the view adopted by the majority of its members.



Table 5.6 Activity of the Majlis Ash-Shura in the legislative field

Term/Year	Propose new laws	Percent	Approve new laws	Percent	Amendment laws	Percent	Interpret laws	Percent	Approve Concessions	Percent	Total
1/1	6	42.86%	6	42.86%	2	14.29%	0	00.00%	0	00.00%	14
1/2	5	18.52%	17	62.96%	5	18.52%	0	00.00%	0	00.00%	27
1/3	4	22.22%	10	55.56%	3	16.67%	1	05.56%	0	00.00%	18
1/4	6	23.33%	18	60.00%	4	13.33%	0	00.00%	1	03.33%	30
1 <sup>st</sup> term total	22	24.72%	51	57.30%	14	15.73%	1	01.12%	1	01.12%	89
2/1	7	30.43%	4	17.39%	6	26.09%	1	04.35%	5	21.74%	23
2/2	5	38.46%	3	23.08%	4	33.77%	1	07.69%	0	00.00%	13
2/3	7	25.93%	12	44.44%	6	22.22%	0	00.00%	2	06.41%	27
2/4	3	07.14%	31	73.81%	6	09.52%	0	00.00%	4	09.52%	42
2 <sup>nd</sup> term total	22	20.95%	50	47.62%	4	19.05%	2	01.90%	11	10.48%	105
3/1	1	07.69%	6	46.15%	20	23.08%	1	07.69%	2	15.38%	13
3/2	3	07.14%	21	50.00%	15	30.95%	1	02.38%	4	09.52%	44
3 <sup>rd</sup> term total	4	07.27%	27	49.09%	13	29.09%	2	03.64%	6	10.91%	57
Total	48	19.28%	128	51.41%	52	20.08%	5	02.01%	18	07.23%	251

\*Percentage was calculated in relation to the total

Researcher's calculation; Source: the Majlis Data Archive



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From the figures shown in Table 5.6 it can be observed that the number of new laws and by-laws proposed by the government during the period of study (1993- 2003) reached 128, against 48 initiated by the Council itself, the different respective percentages are 51.4 per cent as against 19.28 per cent. This difference may be attributed to the fact that the Kingdom of Saudi Arabia is going through an extensive regulatory reviewing stage of its laws and by-laws. This is in preparation for joining the World Trade Organization, and complies with the requirements of the international economy, which is in a state of continuous and rapid progress.

The number of laws referred by the government to be amended by the Council reached 52. Table 5.6 shows a successive increase in the total legislative activities that the Council accomplished witnessed a successive increase throughout its three terms. For example, the total accomplishments of the Council in its first term reached 89 legislative works, this rose to 105 in the second term, and to 57 in the first 2 years of the third term. At the same time, there is a decrease in the number of requests for legal interpretations that were referred to the Council by the government and also in the number of requests for approving concessions contracts for mining. This is probably attributed to the fact that, the right granted to the Supreme Council of Petroleum has reduced the role of Majlis Ash-Shura and the Council of Ministers in this field.

One member of the Majlis Ash-Shura believes that the Council, during the last 10 years, has contributed towards providing numerous laws that have helped in improving the economic and social situation in the Kingdom. This was achieved by issuing new laws and amending previous ones in the institutions of the government. He also believes that



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the Council has largely succeeded in performing its legislative role. by comparison with its other roles, despite the need for more development in this area.<sup>30</sup>

One of the ministers observes: During the last 10 years, the Majlis Ash-Shura has proved that it studied the issues and laws comprehensively and seriously. Moreover, it adopted a work method through which the views concerning the issues under discussion in the Council were sought.<sup>31</sup> He added:

This method represents a qualitative change in the decision-making process in the Kingdom of Saudi Arabia. Moreover, the Council has participated effectively in improving the formulation of laws and their contents. This participation expressed the extent of the scientific competence and the administrative experience enjoyed by the Council members, who have a comprehensive look at issues and continuously attempt to achieve public interests, and not personal gains.<sup>32</sup>

The minister explains the important legislative role played by the Majlis in the Kingdom as follows:

The experience of the Majlis Ash-Shura in legislative work has been successful and largely beneficial to the government. In the past and before the formation of the modern Ash-Shura Council, experts' commissions of the Council of Ministers and other government committees studied the law. Now the law is studied objectively and by a large number of experts and specialists among the Councils'

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<sup>30</sup> An interview with Ash-Shura Council member, the head of the Foreign Affairs Committee, Dr Mohamed Al-Hilwa, Riyadh, 10/5/2003.

<sup>31</sup> An interview with, H.E.Dr Muttalab Al-Nafissah, Minister of State and a key member of the Council of Ministers, Riyadh, 24 /5 /2003.

<sup>32</sup> Ibid.



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members who have scientific experience and knowledge in a way that will enrich the law.<sup>33</sup>

To assess the influence of the legislative role of the Council in making legislation in the Kingdom, the researcher has taken 5 resolutions for each year during the study period (1993-2003) as a study sample. So, the resolutions, on which the study is based, are 50 in total during the 10 year study period. As Table 5.7 shows, the results indicate that the legislative role of the Majlis has been highly significant in reviewing, modifying and approving or rejecting legislation referred by the government that has covered economic, political, social, cultural, administrative and developmental areas. The results show that the Majlis approved 78.45 per cent of the 50 studied laws, modified 14.37 per cent and rejected 6.55 per cent. The Majlis rejection of laws and its adaptation of situations being quite different from the government's view, may reflect the independence of the Council in its legislative resolution, and consequently gives the Council a distinct legislative power. For example, when the Majlis studied the draft law regarding income tax on non-Saudis in which the government proposed to enforce an income tax of 10 per cent on those citizens whose monthly income exceeded \$800, it rejected this law by a majority of two thirds (73 votes). This may be because the Majlis saw it as undesirable to impose such a tax on experts regardless of the amount of their income. Some of the members justified their objections to the proposed income tax by citing the unsuitability of prevailing circumstances. Others argued that this income tax law should be applied to all citizens, whether Saudis or non- Saudis. Applying this law, as others maintain, may have negative consequences on the national economy and the attraction of foreign investment. Moreover, this may have a negative influence on private and public sectors and deprive them of the help of qualified and experienced

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<sup>33</sup> Ibid.



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foreign manpower.<sup>34</sup> This rejection by the Majlis Ash-Shura of a compulsory income tax on non-Saudis has provoked different reactions inside the Kingdom of Saudi Arabia, an issue discussed by all the Saudi newspapers. Some argued that the resolution was unwise, while others maintained that imposing such a come tax on non-Saudis would achieve an income additional to the government budget amounting to 1.5 billion dollars per year. This would coincide with the recommendations of the International Monetary Fund in its 2002 report with regard to the improvement of the performance of the Saudi economy: The executive managers of the Fund urge the Saudi officials to expedite the application of the proposed income tax. Some executive managers recommend enforcing taxes on sales in order to approve the application of a value added tax (VAT).<sup>35</sup>

Other examples of Majlis Ash-Shura's independence, as shown in Table 5.6, are its disapproval of draft laws proposed by the government. These include the disapproval of Majlis Ash-Shura of the draft Furnished Residential Apartments Law and the disapproval of the draft Dairy Law. In two other cases, the Council has adopted a position different from that of the government. These are the law drafted to establish a mining company owned by the government and the law for increasing of fuel prices. Regarding the establishment of the mining company, the Council supports giving the project to the private sector. The government did not totally reject the viewpoint of the Council, but the draft law for the company issued by a Royal Order included a condition that the newly established company would be sold to the public after 5 years of establishment. As for increasing fuel prices, the government, for purely economic reasons, did not adopt the view of the Majlis Ash-Shura.<sup>36</sup>

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<sup>34</sup> An interview with Ash-Shura Council member, member of the Financial Committee, Mohammed Baker, Riyadh. 10/6/2003, and Al-Watan newspaper, issue no, 836, 13/1/2003, p. 1.

<sup>35</sup> Al- Qinaibit, Mohammed, "Ash- Shura Council member," *Al Yamah Magazine*, dated 17/1/2003, p.96.

<sup>36</sup> The record of the Council's performance for the year: 2002/2003.



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Recently, the Majlis has rejected some new draft laws. For example, it has rejected a law increasing the tickets price of the national carrier (Saudi Arabia Airlines), and a new law for enforcing fees on house servants, shepherds, farmers and fishermen, in addition to cancelling the condition of being originally Saudi for serving in the military.<sup>37</sup>

It may be argued that the legislative activities of the Majlis Ash-Shura had accompanied changes in the economic and social environment of the Kingdom of Saudi Arabia. These changes made the Council address its responsibilities and contribute, with the co-operation of the government, to setting up and developing the legal system in the country. This established the method for economic and administrative reforms in the country. Moreover, the development of the legal system enhanced the chances of the Kingdom joining the World Trade Organization. The Majlis Ash-Shura's achievements have not only been quantitative in nature but qualitative as well. Some of these achievements have really been outstanding milestones in the progress of the Saudi legal system. These achievements include developing the laws on health, social insurance, publications and printing, *Sharia* deliberations, communications, the penal code, instalment sales, the environment, controls and principles regarding recruiting a foreign workforce and the incentives and methods regarding the hiring of Saudi citizens.

It was natural that the Council should receive criticism regarding some of the laws and by-laws it has approved, especially those regulating the electricity and fuel products tariffs. Also, some of the laws approved by the Council aroused fears in some sectors of Saudi society concerning the negative effects that might result. Examples of these laws are: social insurance, early pensions for women and foreign investment.

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<sup>37</sup> Ibid, 2003/2004.



Table 5. 7 A study of some resolutions taken by the Majlis on laws proposed by government

No.	Name of regulations (laws)	No. of articles	Complete Approval		Formal Modification (in form)		Modification		Rejection	
			No	Percent	No	Percent	No	Percent	No	Percent
1	Natural life protection	18	15	83.33%	1	05.56%	2	11.11%		00.00%
2	Commercial Register	20	20	100.00%		00.00%		00.00%		00.00%
3	Organizing Telex Services	23	23	100.00%		00.00%		00.00%		00.00%
4	Reconciliation Protecting form Bankruptcy	18	18	100.00%		00.00%		00.00%		00.00%
5	Principles of School Calendar	8	2	25.00%	2	25.00%	2	25.00%	2	25.00%
6	Educational Research and Studies	17	14	82.35%	1	05.88%		00.00%	2	11.76%
7	Establishing the Saudi Mining Company (Minerals)	4		00.00%		00.00%		00.00%	4	100.00%
8	Co-operative Health Insurance for Non-Saudi Workers	19	15	78.95%	2	10.53%	2	10.53%		00.00%
9	Foreign Education in the Kingdom	21	14	66.67%	3	14.29%	2	09.52%	2	09.52%
10	Printing and Publishing	49	16	32.65%	13	26.53%	13	26.53%	7	14.29%
11	Furnished Residential Apartments	6		00.00%		00.00%		00.00%	6	100.00%
12	Sale of Vehicles	10		00.00%	1	10.00%	3	30.00%	6	60.00%
13	Commercial Names	17	13	76.47%	4	23.53%		00.00%		00.00%
14	Removing the Real Estate for the Interest of the Public	26	19	73.08%	2	07.69%		00.00%	5	19.23%
15	Using the Safety Belt	6	1	16.67%	4	66.67%	1	16.67%		00.00%
16	Handicapped Protection	16	10	62.50%	1	06.25%	2	12.50%	3	18.75%
17	Organizing government Departments Magazines	6	6	100.00%		00.00%		00.00%		00.00%
18	The Health System	19	16	84.21%		00.00%	1	05.26%	2	10.53%
19	Developing Annual Reports of government Departments	7	1	14.29%	3	42.86%		00.00%	3	42.86%
20	Social Insurance	68	55	80.88%	4	05.88%	4	05.88%	5	07.35%
21	Rules for the King Fahd Holy Qur'an Printing Complex	15	15	100.00%		00.00%		00.00%		00.00%
22	Travel Documents (Passports)	15	4	26.67%		00.00%	1	06.67%		00.00%
23	Legal Procedures	263	228	86.69%	26	09.8%9	9	03.42%		00.00%
24	Saudi Patients' Expenses	10	7	70.00%		00.00%		00.00%	3	30.00%
25	Draft Dairy Law	1	1	00.00%		00.00%		00.00%	1	100.00%
26	Regulation of GCC Patents' Rights	33	33	100.00%	1	03.03%		00.00%		00.00%
27	Documented Culture Protection	5	5	100.00%		00.00%		00.00%		00.00%
28	Recycling of Purified Sewage Water.	34	29	85.29%	5	14.71%		00.00%		00.00%
29	Amendment of Penal Law Related to Money Forgery	1	1	100.00%		00.00%		00.00%		00.00%
30	Control and Audit Organization for the GCC States	35	31	88.57%	4	11.43%		00.00%		00.00%
31	Foreign Investment	18	8	44.44%	3	16.67%	7	38.89%		00.00%
32	Registration of Real Estate	78	68	87.18%	1	01.28%	1	01.28%	8	10.26%
33	Trade Marks	47	43	91.49%	1	02.13%	1	02.13%	2	04.26%
34	Trading in Fertilizers and Agricultural Enrichment	12	10	83.33%		00.00%	1	08.33%	1	08.33%
35	Commercial Statements	14	9	64.29%		00.00%	1	07.14%	3	21.43%
36	Unified Customs System for the GCC States	4	1	25.00%	1	25.00%	1	25.00%	1	25.00%
37	Activities Harmful and Dangerous to the Environment	10	10	100.00%		00.00%		00.00%		00.00%
38	Communication Regulation	41	35	85.37%	6	14.63%	1	02.44%		00.00%
39	Regulation for Newspaper establishments	30	20	66.67%	3	10.00%	7	23.33%		00.00%
40	Amendment of the Flag Regulation	1	1	100.00%		00.00%		00.00%		00.00%
41	General Regulation of the Environment	24	18	75.00%	4	16.67%	2	08.33%		00.00%
42	Building Roads on the Account of the Local & Companies	6	4	66.67%		00.00%	2	33.33%		00.00%
43	Legal Profession	43	34	79.07%	6	13.95%	3	06.98%		00.00%
44	Fees on Fishermens' Licenses and Boats	4	1	25.00%	2	50.00%		00.00%	1	25.00%
45	Real Estate Units Ownership	19	17	89.47%	2	10.53%		00.00%		00.00%
46	Penal Measures	225	198	88.00%	12	05.33%	15	06.67%		00.00%
47	Non -Saudis Ownership of Real Estates	8	8	100.00%		00.00%		00.00%		00.00%
48	Organizing Labour advisory Committees	20	18	90.00%	2	10.00%		00.00%		00.00%
49	Increasing Fuel Prices	1	0	00.00%		00.00%		00.00%	1	100.00%
50	Income tax for non-Saudis	25	1			00.00%		00.00%		1 00.00%
Average		1420	1114	78.45%	120	08.45%	84	05.92%	93	06.55%

Researcher' s own calculation; source: the Majlis Data Archive



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### **5.1.6 Obstacles to legislative effectiveness**

Despite the effectiveness of the legislative function performed by the Council as discussed earlier, there are still some influential factors that limit its full effectiveness in this area. The most important factors are discussed below.

#### **5.1.6.1 *The Sharing of the Council of Ministers in the Legislative Authority***

The sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura weakens the role of the latter. This is despite the latest amendments, which have given it greater authority in this area. In order to ascertain the views of the sample on this issue, the researcher provided a statement in the research questionnaire concerning the extent of their agreement with the above view. Table 5.8 shows that 89 (69.6 per cent) of the respondents stated that the sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura reduces effectiveness of the latter. However, 27 (21.6 per cent) of them felt that the sharing of the Council of Ministers with Ash-Shura Council does not reduce its legislative effectiveness. This disagreement may be attributed to the fact that there are at least some positive aspects to the Council of Ministers sharing legislative authority with the Majlis Ash-Shura, especially if one considers the shortage of members specializing in the *Sharia* and law in the current formation of the Council. Also, there is an absence of a competent committee or body inside the Majlis that is ultimately responsible for reviewing the legislation drafted by the Majlis. Moreover, the experience of the Majlis, compared to the Council of ministers, in this legislative aspect of its work is insufficient because, compared with the Council of Ministers, it has only recently been re-established. This view is supported by one member of the Council who was interviewed who believes that responsibility for legislative issues should be not confined to the Majlis Ash-Shura.



Rather, it should be held jointly with the Council of Ministers, since the two Councils represent a connected legislative system.<sup>38</sup>

**Table 5.8 The sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura reduces effectiveness of the latter**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly disagree	1	.8	.8	.8
Disagree	26	20.8	20.8	21.6
Do not know	11	8.8	8.8	30.4
Agree	57	45.6	45.6	76.0
Strongly agree	30	24.0	24.0	100.0
Total	125	100.0	100.0	

As was mentioned above, the legislative authority is mainly shared between the Majlis Ash-Shura and the Council of Ministers. The law of the two Councils has stipulated that laws should be issued and amended by Royal Decree after being studied independently by both Councils.<sup>39</sup>

However, some believe that the authority of the Council of Ministers is higher than that of the Majlis Ash-Shura, since the law of the Council of Ministers grants it the right to review the resolutions of Majlis Ash-Shura. Nevertheless, the settlement of any disagreement between the two Councils is left to the King.<sup>40</sup> In line with this belief, one can see that the right of the Council of Ministers to review the resolutions of Majlis Ash-Shura in general, and the legislative resolutions issued by the Majlis in particular, gives the Council of Ministers the final decision with regard to legislation. This is

<sup>38</sup> Interview with the member of the Ash-Shura Council, Dr Saleh Al Malik, Riyadh, 20/7/2003.

<sup>39</sup> The Law of the Council of Ministers, Article 20, and the Law of Majlis Ash-Shura, Article 18.

<sup>40</sup> Interview with HE Mohamed Al Nafie, chairman of the Control and Investigations Commission. Riyadh, 12/7/2003.



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mainly due to the absence of a mechanism that allows the Majlis Ash-Shura to follow up its resolutions inside the Council of Ministers and forward the views of the members of Majlis Ash-Shura to the Council of Ministers. It is believed that the right of the Council of Ministers to review the resolutions of Majlis Ash-Shura has weakened the role of this Majlis in general.

Some Saudi intellectuals believe that the sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura needs to be reconsidered. In an essay published in Al-Watan, Dr Abdullah Al-Fawzan, a Saudi writer, called for the Majlis Ash-Shura to be developed by giving it a gradual legislative authority and enabling it to issue final resolutions. In its functioning and duties, the Majlis Ash-Shura would thus be similar to all other parliaments in the world, including in some Islamic countries; consequently, the function of the Council of Ministers would be limited to an executive authority.<sup>41</sup>

Dr Mishari Al-Naeem, a lecturer in political science at King Saud University, also believes in the need to reconsider the current structure of the legislative authority in the Kingdom of Saudi Arabia, whereby the Council of Ministers has more legislative authority than the Majlis Ash-Shura, despite the fact the latter possesses some of the best expertise in the Kingdom.<sup>42</sup>

Al-Busaily, by contrast, believes that the sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura reflects the nature of the Saudi constitutional system, which has not adopted the “separation of powers” common in

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<sup>41</sup> Al-Watan newspaper, issue 134, 10<sup>th</sup> February 2001, p. 18.

<sup>42</sup> Al-Watan, (daily newspaper), issue no 238, dated 25 /5/ 2001.



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other political systems; instead it has adopted the principle of co-operation between the 3 authorities in the Kingdom to perform the duties assigned to them.<sup>43</sup>

It is hoped that the recent creation by King Fahd Bin Abdul Aziz of the post of State Minister and Member of the Council of Ministers for the Affairs of Majlis Ash-Shura, and the appointment of an Ash-Shura Council member to this post, will help to co-ordinate the activities of the two Councils so as to reduce the negative effects that hinder the effectiveness of the legislative role of Majlis Ash-Shura.<sup>44</sup>

#### **5.1.6.2 *Assigning the duty of studying by-laws to the Majlis Ash-Shura***

Article 15 of the Law of Majlis Ash-Shura stipulates that one of its duties is to study laws and by-laws. As was mentioned in Chapter Three, the duty of the legislative authority in the Kingdom of Saudi Arabia is to lay down laws and by-laws that further the interests of, and remove corruption from the affairs of the State according to the principles of the Islamic *Sharia*. Laying down by-laws is the responsibility of the executive authority, as is the case in most political systems.

Assigning the study of by-laws to the Majlis Ash-Shura placed a new burden on the Council and its members, owing to the effort and time needed for this role, whether at the level of specialized committees, or at the level of Council sessions. This will affect the legislative performance of the Council and contribute to delaying the achievement of the other legislative tasks that represent the duties of the Council, such as presenting legislative proposals and studying legislative drafts referred from the government.

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<sup>43</sup> Ibid.

<sup>44</sup> A royal decree was issued to appoint Dr Saud Al Mutahami state minister and a member in the Council of Ministers for the affairs of Ash-Shura Council, in December, 23, 2003. *Riyadh* newspaper, issue 12966, dated 24/12/2003, p. 1.



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However, such studies might be carried out by the legal commissions in the Council of Ministers, and not forwarded to the Majlis Ash-Shura.

One official who was interviewed believes that the duty of the Council to studying the by-laws submitted by the government needs to be reconsidered:

Giving the Majlis this specialty is considered a unique case, not practised in all parliamentary or semi- parliamentary councils. It has resulted in the Majlis being preoccupied with less important issues and neglecting the most important ones that deal with finding legislation that addresses social problems.<sup>45</sup>

The Majlis Ash-Shura is occupied with the study of by-laws and basic principles that regulate the work of government organizations and institutions. This affects the legislative effectiveness, especially since the Council lacks a legal commissions and research centre specializing in the area of legislation.

#### **5.1.6.3 *Issuance of laws without referring them to the Majlis Ash-Shura***

In addition to the discussion in point 2 regarding the reference of a large number of by-laws to the Council for study, some believe that there are several important draft legislations which have been studied by the Council of Ministers and issued without reference to the Majlis Ash-Shura for its view in accordance with Article 15 of the Law of the Majlis. This has negatively affected the legislative function of Majlis Ash-Shura and weakened its primary role. In attempting to ascertain the views of the Council members the researcher discovered that 77.2 per cent of the sample agreed that the

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<sup>45</sup> An interview with a government official who asked to remain anonymous, Riyadh 25/5/ 2003.



issuance of laws without their being referred to the Majlis Ash-Shura has negatively affected the Council's legislative function (Table 5.9).

**Table 5.9 The issuance of some laws by the Council of Minister without referring them to the Majlis limits the legislative function of the latter**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	7	5.6	5.7	5.7
	Do not know	6	4.8	4.9	10.7
	Agree	72	57.6	59.0	69.7
	Strongly agree	37	29.6	30.3	100.0
	Total	122	97.6	100.0	
Missing		3	2.4		
	Total	125	100.0		

From practical experience, most of the decisions issued by the Council of Ministers since the establishment of the Majlis have been based on consultation with the Majlis Ash-Shura. However, there are few laws and by-laws issued without being referred to the Majlis Ash-Shura for its view. The researcher believes that the reasons for not referring some laws to the Majlis may be attributed to the fact that certain laws needed to be processed and issued quickly. This is expedite the acceptance of the Kingdom of Saudi Arabia into the World Trade Organization and to comply with the requirements of the developments in the international economy. The researcher believes that the reasons behind not refer few laws to the Majlis Ash-Shura could be as follows:

1. The absence of any law or basic principles governing the routes of the transactions between the two Councils (As-Shura and Ministers).
2. The Majlis lacks representation inside the Council of Ministers and its relevant committee.<sup>46</sup>

<sup>46</sup> This shortcoming may have been overcome since King Fahd appointed the member of the Majlis, Dr Saud Al Mutahami, as state minister and a member in the Council of Ministers for the affairs of Ash-Shura Council, December, 23<sup>rd</sup>, 2003. The Riyadh newspaper, issue no 12966, 24/12/2003). p. 1.



3. There is a belief that the referral of certain laws to the Majlis Ash-Shura, which need to be processed quickly, will lead to the delay of their issue.

In conclusion, one can say that it is not wise to issue legislative works before they have been properly studied, deliberated on and discussed by the Majlis Ash-Shura and resolutions being issued regarding them. This belief is supported by the conditions of Article 20 of the Law of the Council of Ministers and the conditions of Articles 17 and 18 (after amendment) of the Law of Majlis Ash-Shura. Moreover, the issuance of any legislative works by the Council of Ministers without their being presented to Ash - Shura Council violates the intention of the basic Law of government when establishing the Majlis Ash-Shura, which is based on the provision of consultations before a decision is issued by the ruler. This leads to a weakening of the role of the Council in general, and decreases its power in the legislative process in the country, in particular. At the same time, there is a need to find a methodology for the classification of urgent and non-urgent laws and issues referred from the government to the Majlis Ash-Shura. In the light of this classification, urgent laws or issues would be handled in accordance with fast track procedures to avoid any delay to the government's task and to maintain public interest.

#### ***5.1.6.4 Shortage in the number of Majlis Members Specializing in the Sharia***

To ascertain the opinions of Majlis Ash-Shura members regarding of its need to increase the number of members specializing in the field of the *Sharia* and law, the researcher provided a specific statement in the questionnaire. The answers showed that 55 per cent of the sample agreed as regards the need to increase the number of members in the field of the *Sharia* and law in order to enhance the legislative efficiency of the



Council. However, 36 per cent replied that they did not see any need to increase the number of specialized members. These figures confirm, despite the existence of highly qualified members of Majlis Ash-Shura, the need for the Council to increase the number of its members specializing in the area of legislation.

**Table 5.10 The Majlis needs to increase the number of members specializing in the Islamic *Sharia* and law in order to promote its legislative effectiveness and qualification**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	6	4.8	4.8	4.8
	Disagree	39	31.2	31.5	36.3
	Do not know	10	8.0	8.1	44.4
	Agree	48	38.4	38.7	83.1
	Strongly agree	21	16.8	16.9	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		

The information presented in Table 5.10 indicates the importance of increasing the number of specialists in the area of the *Sharia* and laws in the Majlis Ash-Shura; this could be done either by increasing the number of members specializing in these fields, or more appropriately, by creating a board of legal experts. This point will be discussed in more detail in Chapter Seven.

One member of the Majlis Ash-Shura called for an increase in the number of Council members specializing in the *Sharia* and law and gave the following reasons:



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We are a state that rules by the book of Allah (the Holy *Qur'an*), and continuously need *Sharia* and legal specialists to know judgments in many issues that require legislation. We need members who have enough knowledge in the *Sharia* and have the ability to give judgments or (*fatwa*) which is a vital necessity regarding different issues.<sup>47</sup>

Dr Mohammad Al-Jarba supports this view:

The Council has been successful in the variety of specializations of its members, but its important role in legislation requires an increase in the number of its members who should have a legal-capacity, lawyers and judges to support this area.<sup>48</sup>

The researcher believes that the shortage in the number of members specializing in the *Sharia* and law and the non-existence of experts or a legal commission similar to that of the Council of Ministers may be behind the weakness of the Council in its inability to practise duties in the areas of interpreting laws, formulating legislation and providing legislative proposals, to meet the needs of Saudi Society.

The Council must be supported by specialists in the *Sharia* and law or by a legal consultative commission that supports the members' work in studying draft law before presenting them to the Council in order for them to know whether these laws agree or disagree with other current laws. Also, such specialists can help to enhance the actual drafting of the laws and perform procedural matters, especially as the country has plenty of individuals qualified in the areas of the *Sharia* and law.

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<sup>47</sup> An interview with the Majlis' member Dr Abdul Aziz Al Thinayan, Riyadh, 13/7/2003.

<sup>48</sup> An interview with Dr Mohammad Al-Jarba, Riyadh 15 /6/ 2003.



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### 5.1.7 Conclusion

From the previous discussion, one can see that the legislative function of Majlis Ash-Shura is practised via two channels: The first is an original legislative function where the Majlis itself initiates a new law, without waiting for a request from the government. In this way, it shares in bearing the responsibility and in making the general policy of the government. The second channel is the legislative function where the Majlis gives its point of view whenever the government requests it.

It is clear that the role of Majlis Ash-Shura was previously very limited regarding the proposal of laws, compared to the role played by the Council of Ministers. However, the latest amendment of Article 23 of the Majlis Law has contributed to the strengthening of its role in the area of legislative initiatives and, to a great extent, has made it equal to that of the Council of Ministers. Moreover, it gave the Majlis Ash-Shura an authority and responsibility similar to other parliamentary councils in the area of proposing laws. It is hoped that this new authority will have positive results and give rise to the activation of the Council to propose new laws and influence positively its role in proposing legislation that contributes to the organization and development of Saudi society.

It is clear that the amendment to Article 23 has aimed, in general, to widen the implementation of Ash-Shura principle in the Kingdom of Saudi Arabia, whereby the Council is able to provide Ash-Shura (consultations) without requesting permission from any other authority in the country. This is consistent with the philosophy of Ash-Shura in Islam, which requires the offering of consultations and advice to the ruler.



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The role of Majlis Ash-Shura in the study of draft laws forwarded to it from the government is considered important in the legislative process. This is because the Majlis is consulted before submitting any draft law to the ruler (the King) for issuance. For this reason, the Majlis has become an effective partner in the decision-making process alongside the executive authority. In addition, this participation gives the Majlis a legislative role similar to that practiced by many parliamentary houses in the world.

The amendment to Article 17 of the Law of the Council occurred during the drafting of this research, its aim is to strengthen the legislative role of Majlis Ash-Shura. The amendment stipulates that the resolutions of the Council should be raised directly to the King. While, the previous text of Article 17 stipulated that the resolutions were raised to the Prime Minister, although the King is the Prime Minister according to Article 56 of the Basic Law of government. There is a great deal of difference between the two positions from the constitutional aspect. The King, as mentioned earlier, is the highest head of state and the reference for all authorities in the Kingdom, whereas the authority of the Prime Minister is confined to specific jurisdictions as Chairman of the Council of Ministers according to the Kingdom's Constitution.

Moreover, the amendment to this article describes the procedure to be followed when there is a difference in the points of view of the two Councils regarding issues under discussion. The amendment has made it necessary to refer the topic or law to the Majlis Ash-Shura to study the nature of the disagreement, give its views regarding it, and raise the law or the issue again to the King.



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It has been noted that the legislative stages adopted by the Majlis in practising its legislative function have to some extent developed and are becoming similar to some of the methods followed by other Shura Councils and parliaments.

In the light of the previous discussion on the legislative function of the Majlis, the most significant outcome of the research indicated that the majority of the Council members (80 per cent) expressed a positive evaluation regarding their satisfaction with the legislative function of the Council. The results also showed that the legislative function of Majlis Ash-Shura is affected by many factors. For example, 70 per cent of the respondents believe the sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura weakens its legislative role. Furthermore, 89 per cent of the members believe that the issuance of legislation by the executive authority without the approval of the Majlis Ash-Shura negatively affects the effectiveness of the legislative function of Majlis Ash-Shura. In addition, more than 55 per cent of the respondents believe that the lack of members specializing in the areas of the Sharia and law has negatively influenced the effectiveness of the legislative role of the Council.

Despite the fact that Ash-Shura Council resolutions are not binding, practical experience indicates that these resolutions have gained the attention and acceptance of the King and the government, and approximately 85 per cent of the Majlis' legislation, which number 203 resolutions during 3 terms, have been adopted. This was ascertained as a result of studying the Council's documentations and resolutions.

The researcher believes that the reasons behind the King and government's acceptance of the resolutions of Majlis Ash-Shura are mainly due to the fact that they are the result of expertly in given consultations and advice. Moreover, these resolutions came as a result of in depth discussions and the diverse views of a group of scholars, intellectuals



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and specialists in different fields of knowledge. They all work (inside the Majlis Ash-Shura) with a common and comprehensive view with the aim of serving the public and the welfare of the community.

In conclusion, it can be said that the Majlis has a positive impact on legislation in the Kingdom and has achieved a variety of legislative accomplishments. The members of the Council, and the role played by the Chairmanship of the Council, have helped to achieve a relative independence in its legislative work, and in its ability to adopt opinions contrary to those of the government, which has lately meant it enjoys a legislative position. It was noticed during the period of the study that understanding and co-operation regarding legislative issues prevailed between the Majlis Ash-Shura and the Council of Ministers. The Majlis' legislative function was not subject to any limitations from the King or the executive authority (The Council of Ministers).



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## **Chapter Six: The Oversight Function of the Majlis at Domestic Level**

### **Introduction**

While the previous chapter discussed the legislative function of Majlis Ash-Shura in the Kingdom, this chapter will discuss the Majlis' oversight function. This basic function will be investigated and identified. Moreover, the aim of this chapter is to examine the opinions of the Council members on the extent of the effectiveness of the oversight function and determine the obstacles that it has faced.

### **6.1 Oversight authorities**

In order for it to oversee the government's performance, the Majlis is vested with various oversight authorities.<sup>1</sup> The following discussion will briefly identify these authorities.

#### **6.1.1 Discussion of the general plan of the government**

This authority<sup>2</sup> enables the Council to discuss the Kingdom's general plan for economic and social development, which has been proposed by the Ministry of Planning and referred to the Council by the Prime Minister (the King). The plan is a comprehensive national programme that includes, among other things, the economic and social objectives of the Saudi government, the time-frame for their implementation and the strategies, policies and the means of achieving them. The Council receives annual follow-up reports on the implementation of the plan. The authority of the

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<sup>1</sup> The Law of Majlis Ash-Shura, Articles 15,22 and 24.

<sup>2</sup> Ibid, Article 15, section (a).



Council to discuss the general plan enables it to contribute to some degree to the development of the economic and social policies for the nation.<sup>3</sup>

Table 6.1 shows that the Majlis Ash-Shura, during its three terms, has participated in debating and approving the two general development plans of the government, which are: the 6<sup>th</sup> Development Plan (1995-1999) and the 7<sup>th</sup> Development Plan (2000-2004). Also, it shows that the Council has received and debated 10 annual follow-up reports on the implementation of the development plan.

**Table 6.1 The oversight activities of the Majlis in discussing the general plan for development and annual performance reports forwarded by ministers (1993-2003)**

Term/Year	No. Of government Development Plans and annual follow-up Reports	Percentage	No. Of Annual performance Reports	Percentage	Total
1/1	1	100.00%	0	00.00%	1
1/2	2	100.00%	0	00.00%	1
1/3	1	50.00%	1	50.00%	2
1/4	1	12.50%	7	87.50%	8
<sup>1st</sup> Term total	5	33.33%	8	66.67%	12
2/1	1	00.00%	27	100.00%	27
2/2	1	03.33%	29	96.67%	30
2/3	2	04.17%	46	95.83%	48
2/4	1	00.00%	33	100.00%	33
<sup>2nd</sup> Term total	5	02.17%	135	97.83%	138
3/1	1	02.56%	38	97.44%	39
3/2	1	02.33%	42	97.67%	43
<sup>3rd</sup> Term total	2	02.44%	80	97.56%	82
Total	12	03.88%	223	96.12%	232
*Percentage was calculated in relation to the total					

Researcher's own calculation; source: the Majlis Data Archive

<sup>3</sup> Majlis Ash-Shura in the Kingdom of Saudi Arabia, (Riyadh, published by the Majlis, July, 2004).



### 6.1.2 Discussing the annual performance reports of government ministries

Being able to discuss the annual performance reports presented by ministries and other government departments is another oversight authority that is vested in the Majlis.<sup>4</sup> The Majlis receives<sup>5</sup> these reports and, after its specialized committees have conducted discussions in the presence of relevant parties and reported their findings and recommendations to the Majlis, the entire Majlis debates the matter and votes on it. The deliberations of the annual reports usually include a review of the performance of the ministry or department concerned, its accomplishments and the obstacles it has faced.<sup>6</sup>

According to Table 6.1, 96 per cent of the Majlis' oversight function lies in the study of the annual reports generated by the performance of the governmental departments. During its above-indicated three terms, the Majlis studied 223 annual reports concerning the performance of governmental departments. As the above table illustrates, the Majlis started exercising this authority in the third year of the first term, the first study being of a report on the Saudi Development Fund. The delay or reluctance of the Saudi departments in submitting their annual reports to the Majlis Ash-Shura may be attributed to their concerns regarding the Majlis, as it was a newly founded monitoring body. However, in the following years, the number of reports submitted witnessed a perpetual increase until it reached 42 reports in the second year of the third term. Moreover, if the first term is compared with the first half of the third term 2002-2003, it can be seen that there is an increase from 8 annual reports to 80 in

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<sup>4</sup> The Law of the Majlis, Article 15, section d.

<sup>5</sup> The Council of Ministers Law obligates all ministries and other government departments to submit an annual report to the Prime Minister, within 90 days from the beginning of each fiscal year. The obligation is stated in Article 29 of the Council of Ministers Law. This comprises what was actually achieved as opposed to what was said in the general plan for development for the previous year, in addition to the difficulties and proposals that are deemed necessary to enhance the progress of work. The reports thereafter will be submitted to Ash-Shura Council.

<sup>6</sup> Majlis Ash-Shura in the Kingdom of Saudi Arabia, op.cit.



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2002 and 2003. This shows the relative increase in the Council's role of monitoring the governmental departments and expresses the growing confidence and mutual co-operation being built between the Majlis and the executive authority.

This oversight authority opens the door for the Council to contribute to some degree to the improvement of the performance of governmental departments and the elimination of the duality of the work of the ministries. As a result of studying the annual reports of the government ministries, the Majlis initiated a number of recommendations regarding the development and reconsideration of the government's institutions. For example, when the Council studied the annual performance report of the Ministry of Planning, it recommended expanding its scope to include the national economy, which is under the scope of the Ministry of Finance. The aim of this initiative is to give careful consideration to economic reform. Also, when the Majlis discussed the annual report of the Ministry of Agriculture and Water Resources, it recommended that a separate Ministry of Water be established concerned with the preservation of this important source in the Kingdom. In a speech delivered at the Majlis Ash-Shura, King Fahd<sup>7</sup> praised the significant role played by the council members in this regard:

Brothers, members of the Mailis Ash-Shura, you are real partners of the government in the field of political and administrative development. I would like to point out a number of initiatives pertaining to the revision of the governmental structure, which emerged at your council, and were thoroughly discussed and studied, and the new ministerial formation embodying these initiatives. acknowledging that some others are still under consideration.

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<sup>7</sup> King Fahd , the annual royal speech delivered at Majlis Ash-Shura at the opening ceremony of the third term, May 17, 2003.



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In a study<sup>8</sup> prepared by the Majlis on the methodology of discussing the annual performance reports of the governmental departments covering the period 1996/1416H–2002/1423H, the following results were established. First, the Majlis has devoted 89 sessions for studying 211 annual reports, i.e. around 1.4 sessions per report; second, during the period of the study, the percentage of the discussed reports was 49 per cent of the total number of issues being discussed; third, the number of interactions made by the members during these discussions was 4,451, and the average time spent in discussing these reports was 347.33 hours (i.e. a total of 14 days, 11 hours and 33 minutes).

These results explicitly indicate that the time and effort exerted by the members in discussing the annual performance reports is substantial. The Majlis has recently devoted a weekly session, Monday of each week, to study the reports submitted to it by the governmental departments.

It is obvious that the time spent by the members in studying the annual reports is considerable and is not commensurate with the results achieved by such long discussions—namely in virtue of the fact that the implementation of the results attained by the Majlis are not, in practice, binding on governmental departments. The reconsideration and development of the techniques adopted when studying these reports is needed to make them more effective. The time spent in discussing these reports should be reduced, giving sufficient time for the discussing of other important issues. In this respect, one of the interviewee members suggested that upon proceeding with the study of any annual report of any governmental department, a designed format should be circulated among the members to record their notes about these reports. Then—as the

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<sup>8</sup> A study prepared by the Meetings Organization Department of the Majlis, on the methodology of discussing the annual reports of the performance of the governmental departments during the period 1996/1416H–2002/1423H.



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member suggests—the report should be passed to the competent committee for a reviewal of the members’ viewpoints and recommendations of the most appropriate points. In this way, the discussion of the reports in the general session would be confined to the revision of the most significant viewpoints of the members and then voting for the best.<sup>9</sup>

### **6.1.3 The right to summon ministers and government officials**

The Majlis has the right to summon any of the ministers and ask him about the performance of his ministry.<sup>10</sup> If it is required that a minister should attend a session, the Council must summon him by submitting a request to the Prime Minister (the King). However, the Chairman of the Assembly (Majlis) has the right to submit a request to concerned ministers to summon any officials in their ministry to attend the Council committee meeting. The Council has summoned a number of ministers and concerned officials to attend its sessions and committee meetings and to answer Council members’ enquiries. The Council has the right to do so when making inquiries directly related to a particular official’s area of responsibility. While attending the Council, ministers and other officials may take part in discussions but they may not vote.

When looking at Table 6.2, one can observe a general increase in the trend of using this oversight tool (in particular, for the summoning of government officials) during the three terms of 1993-2003. The first year of the third term shows a sharp increase in the summoning of government officials compared with that of ministers. This may be due to the fact that these officials are more involved in the daily work of the ministries and therefore can answer any inquiries regarding their particular ministry.

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<sup>9</sup>An interview with the Majlis’ member Dr Abdul Aziz Al Thinayan, Riyadh, 13/7/2003.

<sup>10</sup>The Law of Majlis Ash-Shura, Article 22.



**Table 6.2 Activities of the Majlis in summoning ministers and government officials 1993-2003**

Term/Year	No. Of Ministers	Percentage		No. Of government officials	Percentage
1/1	1	02.78%		10	00.55%
1/2	3	08.33%		77	04.22%
1/3	0	00.00%		73	04.00%
1/4	3	08.33%		121	06.64%
<sup>1st</sup> Term total	7	19.44%		281	15.41%
2/1	8	22.22%		65	03.57%
2/2	2	05.56%		176	09.65%
2/3	3	08.33%		192	10.53%
2/4	4	11.11%		179	09.82%
<sup>2nd</sup> Term total	17	47.22%		612	33.57%
3/1	6	16.67%		410	22.49%
3/2	6	16.67%		520	28.52%
<sup>3rd</sup> Term total	12	33.33%		930	51.01%
Total	36	100.00%		1823	100.00%
<b>* Percentage was calculated in relation to the total</b>					

Researcher's own calculation; source: the Majlis Data Archive

The Majlis Ash-Shura has exercised this right, and has conducted sessions attended by government ministers who reported on different important subjects such as foreign affairs, security, education and health. Amongst the ministers that have attended the Council sessions were the second Deputy Premier and Minister of Defence, the Minister of the Interior, the Foreign Minister and the Ministers for Finance and the National Economy, Education, Higher Education, Justice, Planning, Post, Telephone and Telegraph, Industry and Electricity, Labour and Social Affairs, Commerce, Health, the Municipalities and Rural Affairs and the Governor of the Saudi Arabian Monetary Agency (SAMA). The increase in the number of ministers and officials attending the Assembly is another indication of the co-operation between the government and the



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Majlis. Among the attained objectives of having the ministers summoned before the Majlis, as mentioned by a Council member who was interviewed,<sup>11</sup> are the following:

1. The increase in direct communications between the Majlis and the executive authority.
2. The concerned ministers taking seriously the discussions of the Majlis regarding the performance and the annual reports of the ministries.
3. Clarifying some of the points or aspects that are not covered by the annual reports of the ministries.
4. Ascertaining the greatest number of members' opinions.

#### **6.1.4 The right to request information and documents**

The Majlis has the authority to request any information or documents from governmental departments, which it believes necessary to facilitate its work.<sup>12</sup> The Chairman of the Majlis must submit a request to the Prime Minister for the provision of information and documents in the possession of government institutions. It should be noted that the Assembly has not benefited from this tool, this may be due to the indirect nature of the mechanism.

#### **6.1.5 The new oversight tools**

From the observation of and attendance at several discussion sessions, it was noted that the Majlis has practised serious and detailed oversight roles similar to those exercised by other councils and parliaments. In addition, it was noticed that the Majlis, during its three terms, has attempted to find new oversight tools, this shows its desire to expand its role in this area. These tools are discussed below.

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<sup>11</sup>An interview with Ash-Shura council member, the Head of the Foreign Affairs Committee, Dr Mohammed Al- Hilwa, 10/5/2003.

<sup>12</sup> The Law of Majlis Ash-Shura, Article 24 of.



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## **1. Receiving citizens' petitions**

In 1995, the Majlis formed an administrative committee (the Committee of Petitions) mainly concerned with receiving petitions, complaints and suggestions handed in or emailed by Saudi citizens. These petitions are classified, studied and passed to the concerned committees (according to their topics) for further consideration. Many of the petitions carry valuable suggestions. The Majlis, through Article 23 of its Law, has adopted some of these proposals. In some cases, it has received complaint petitions made by citizens against ministries or departments. Usually, the Majlis refers these complaints to the executive bodies. Since the foundation of this committee, the Majlis has received approximately 750 petitions.<sup>13</sup> However, unlike the practise of other legislative councils, the concerned executive body is not under any obligation to notify the Majlis within a specific period of time about the actions taken in this respect. In addition, we find that the Committee members are not members of the Council but rather employees of it. Indeed, this is among one of the shortcomings that can affect the role of this important committee as an oversight tool serving the public.<sup>14</sup>

## **2. Paying visits to governmental departments and local government**

During its third term, the Majlis developed the means of field visits to some governmental departments and their military, strategic, economic and educational projects. The members have also visited some of the regions of the Kingdom. The Chairman has himself participated in the meetings held by some of the Provincial Councils.<sup>15</sup> The number of visits made by the Chairman and Council members approached 12, some of which were made on the occasion of studying an annual report

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<sup>13</sup> Archive of the Petitions Committee, the Majlis Ash- Shura, 2003.

<sup>14</sup> This shortcoming was overcome recently, when the Majlis decided, in June 2004, to extend the scope of the specialization of the Law and Administration Committee to include the study of citizens' petitions. For more details see Chapter Four.

<sup>15</sup> The Chairman of Majlis Ash-Shura attended the meeting of Hail Province Council held in July 2003.



or proposed issue, and on no specific occasion at other times.<sup>16</sup> Most of these visits came in answer to invitations made by the executive bodies for viewing the achievements and projects accomplished by them. The members normally played no oversight role on these visits.

## 6.2 Evaluation of the effectiveness of the oversight function

In order to ascertain the opinion of the study sample on the extent of the effectiveness of the oversight function of the Majlis, the researcher asked the council members a question in the questionnaire concerning this matter. Table 6.3 shows that 70.4% of the sample believe that the Majlis has no effective oversight function, and 19.2% believe that it does play an effective function; this evaluation of 19.2% may be attributed to the fact that some members believe that the authority vested in the Majlis as stated in its Law, namely that concerned with expressing its opinion on the Kingdom's general policies, enable the Majlis to accept, reject or amend these policies, and that there is nothing in the Law that prevents the Majlis from playing this role.

**Table 6.3 The oversight function of the Majlis Ash-Shura is effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	24	19.2	19.5	19.5
	Disagree	64	51.2	52.0	71.5
	Do not know	11	8.8	8.9	80.5
	Agree	23	18.4	18.7	99.2
	Strongly agree	1	.8	0.8	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
	Total	125	100.0		

<sup>16</sup> The archive of the Public Relations Department, the Majlis Ash-Shura 2003.



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They also believe that the authority the Majlis has to discuss the annual performance reports of the ministries is similar in content to the practise of the parliamentary councils in other countries with regard to questioning ministers. The Chairman of Majlis Ash-Shura supports this view:

The Majlis is monitoring the government's performance through various fields including the annual performance reports, which are considered as a supplementary oversight. Such annual reports are carefully studied by the Majlis with full clearness and transparency, and the Majlis gives strong recommendations regarding its ambitions and those of the citizens for better performance.<sup>17</sup>

The negative evaluation of 70.4% may be attributed to the fact illustrated in Table 6.1, which shows that the Council depends, when exercising its oversight function, on the one tool of discussing the annual reports of ministries, which constitutes 96 per cent of its activities. As a result, most of the oversight resolutions (223) made by the Majlis are based on these annual reports. However, these resolutions have not had a great influence on improving the government's performance, despite the clear increase in their number during the three-term period as is shown in the table below.

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<sup>17</sup> An interview with the Chairman of the Saudi Majlis Ash-Shura Sheikh Selah Bin Humaid, Okaz newspaper, edition No. 13395 30/4/2003 - 28/2/1424H p. 17.



**Table 6.4 The Majlis' oversight resolutions, 1993-2003**

Term/year	Oversight Resolutions	Percentage
1/1	1	0.43%
1/2	1	0.43%
1/3	2	0.86%
1/4	8	3.45%
<sup>1st</sup> Term total	12	5.17%
2/1	27	11.64%
2/2	30	12.93%
2/3	48	20.68%
2/4	33	14.23%
<sup>2nd</sup> Term total	138	59.48%
3/1	39	16.82%
3/2	43	18.53%
<sup>3rd</sup> Term total	82	35.35%
Total	232	100.00%

**\*Percentage was calculated in relation to the total**

This deduction was confirmed by the Majlis members' responses to this statement: The oversight role of the Majlis contributed to an improvement in the performance of governmental ministries. Table 6.5 shows that about 50 per cent of respondents disagreed or strongly disagreed with the statement and were of the view that the Majlis has had no positive influence on the improving the performance of governmental ministries, while 27 per cent agreed or strongly agreed on its positive contribution, and 23 per cent of responses uncertain.



**Table 6.5 The oversight role of the Majlis contributed to the improvement of the performance of the governmental ministries and departments**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly disagree	11	8.8	8.8	8.8
Disagree	51	40.8	40.8	49.6
Do not know	29	23.2	23.2	72.8
Agree	33	26.4	26.4	99.2
Strongly agree	1	.8	.8	100.0
Total	125	100	100	

Other important reasons for this negative evaluation may be attributed to the lack of oversight authority vested in the Council and the lack of independence of its members to perform their oversight role as required.

In spite of this negative evaluation, the researcher has recently noted that there has been a positive, although still insufficient, trend in the government's in responses to the Majlis' oversight output. The most important trend has been: the government decision in 2003 concerning the reform and elimination of the duality of the work of several ministries, which was recommended by the Majlis. Moreover, the government has given attention to the Majlis' resolutions and recommendations relating to its oversight function, which were systematically included in the agenda of the Council of Ministers. In addition, there a governmental proposal aiming to improve the Rule of Law and reduce financial and administrative abuse was submitted to the Majlis for approval.



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### **6.3 Reasons for the ineffectiveness of oversight function**

Some believe that the main reasons behind this ineffectiveness are related to the oversight powers vested in the Majlis according to its Law, and stipulated in Article 15 as previously discussed. They believe that the Majlis does not possess the effective oversight authority and tools to enable it to monitor the performance of the government and the public funds, and question government officials. Its role, as they believe, is limited to providing recommendations, which are not ultimately binding in most cases. As a result the Majlis is not credited as being an effective instrument that can be utilized for achieving the sought reforms.<sup>18</sup> Mr Farisi agrees with this opinion and believes that the Majlis is requested to handle its oversight role in the same way as practised by other Shura and legislative councils.<sup>19</sup>

Meanwhile, Chairman of the Control and Investigations Commission believes in the insufficiency of the oversight tool adopted by the Majlis to monitor the performance of the ministries and governmental departments. He suggests further development of these tools and reconsideration of the Majlis Law.<sup>20</sup>

#### **6.3.1 Ineffectiveness of the oversight tools**

The oversight ineffectiveness of the Majlis can be attributed to the lack of effective tools necessary to authorize it to monitor government performance, question defaulters and preserve public funds.

In order to prove this ineffectiveness, the researcher asked the Council members to respond to a statement regarding the oversight tools adopted by the Majlis. The answers of the members as shown in Table 6.6 indicate that 73 per cent of the sample believe

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<sup>18</sup> Ex-member Dr Hashem, Hashem Abdu, *Okaz* newspaper, 27/11/2001-12/9/1422H, p. 16.

<sup>19</sup> Farisi, Jameel Mohamed, *Okaz* newspaper, edition 13412-18/5/2003 - 17/3/1424H, p. 14.

<sup>20</sup> An interview with HE Mohamed Al Nafi', Chairman of the Control and Investigations Commission, Riyadh, 12/7/2003.



that the oversight tools granted to the Majlis by its Law are ineffective, while 22 per cent find these tools are effective.

**Table 6.6   The oversight tools adopted by the Majlis are effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	14	11.2	11.3	11.3
	Disagree	77	61.6	62.1	73.4
	Do not know	6	4.8	4.8	78.2
	Agree	27	21.6	21.8	100.00
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		

One interviewee indicated that in spite of the fact that the Majlis’ discussion of the government performance report is the tool most commonly adopted by the Majlis, it is still a weak tool that needs a more effective mechanism in order to bind the ministries to its decisions.<sup>21</sup> A second member agreed with this view:

Among the negative aspects we can underline here, is the fact that the governmental departments do not invest in these useful discussions conducted by the Majlis regarding the annual performance reports. Another negative aspect is the absence of the concerned minister or his deputy during these discussions in the general session. These negative aspects weaken the voice of the Majlis and mean it is not heard by the concerned parties. It is as if the members are addressing themselves, and therefore such a defect should be avoided. Moreover, the Majlis’

<sup>21</sup> Ex-member Dr Hashem, Hashem Abdu, Okaz newspaper, published on 27/11/2001-12/9/1422H, p. 17.



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discussion of a three-yearold annual report is a waste of time and is another negative aspect.<sup>22</sup>

The oversight power vested in the Majlis, according to the stipulation of Article 22 of the Majlis' Law, which gives it the right to summon ministers and governmental officers, does not give it the right to question those ministers and officials with respect to defaults noted in their departments. Despite this, the actual practise of Council members in summoning ministers and governmental officers is seriously employed and they do pose critical questions and comments to ministers regarding the performances of their ministries. This point was emphasized by the current Chairman:

The discussion held between the Majlis members and the ministers is based on clarity and transparency. The Council members are free to raise any question to the concerned misters, on the condition that the members abide by the laws of the Majlis in terms of the time given and the manner of discussing the raised issues.<sup>23</sup>

It should be noted that the Majlis has successfully made use of some of its oversight authorities and tools in expressing its opinion regarding many governmental policies, in criticizing the five-year plan and the performance of ministries and governmental departments. This was deduced after a study was made of the resolutions of the Majlis and several sessions were attended. However, the impact of the Majlis has been negligible in improving the performance of governmental ministries and departments.

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<sup>22</sup> An interview with the Majlis' member, Dr Abdul Aziz Al Thinayan, Riyadh, 13/7/2003.

<sup>23</sup> An interview with the Chairman of the Majlis Ash-Shura, Sheikh Saleh Bin Humaid, Okaz newspaper, op.cit.



### 6.3.2 Lack of financial oversight power

The power to monitor the country's funds and the sources and channels of expenditures is a major authority vested in some Shura council and parliamentary houses.

According to its current law, the Majlis Ash-Shura does not have the power of financial oversight although some believe that it can control many financial issues in the country through its authority to discuss and approve the laws referred to it by the Prime Minister. The supporters of this view say that the Basic Law of the government requires that many of the financial issues should be controlled by the laws, which are reviewed by the Majlis, a fact which gives the Majlis the opportunity to study, give opinions and make appropriate decisions in this respect.<sup>24</sup> While admitting the existence of this tool, the researcher still believes it to be weak and lacking in directness since not all financial issues are monitored by the Majlis. For example, the Majlis does not play a role in approving the general budget of the state, because this is prepared by the Ministry of Finance, approved by the Council of Ministers and then issued by a Royal Decree. The financial oversight role of the Majlis is limited to practising a supplementary oversight power through studying the annual performance reports of the governmental departments which involve financial data that gives details about the funds allocated for each department according to the general budget, methods of expenditure and types of financial problems confronted. Despite the relative success attained by the Majlis in practising this function and the benefits generated in some governmental departments, with respect to having the Majlis recommending increased funding, it is still the case that the financial oversight power of the Majlis remains limited and weak as long as it has no role to play in approving the general budget and the Final Statement of the country. The Majlis is still excluded from the comprehensive financial picture of the

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<sup>24</sup> This opinion is supported by the Council member Dr Saleh Al-Malik, a Lecture on Ash-Shura Applications in the Kingdom. Another supporter is Dr Sulaiman, 1994. P. 228.



Kingdom. In an attempt to ascertain the opinions of the study sample regarding the inevitability of enhancing the financial oversight of the Majlis, the following statement was posed in the questionnaire: The Majlis Ash-Shura is in need of an enhancement of its financial oversight power. The entire study sample (100 per cent) confirmed this inevitability, while more than half of the sample 57.6 per cent strongly agreed with the statement. The answers of the sample are illustrated in Table 6.7.

**Table 6.7   The Majlis Ash-Shura is in need of enhancing its financial oversight power**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	53	42.4	42.4	42.4
	Strongly agree	72	57.6	57.6	100.0
Total		125	100.0	100.0	

One member who was interviewed supported this view:

There is an urgent need to increase the Majlis’ financial oversight role giving it the authority to discuss the General Budget and the Final Statements of the Kingdom.<sup>25</sup>

The results shown in the above table indicate the importance of vesting stronger authorities in the Majlis for monitoring financial issues. These results are in accordance with the public tendency towards a desire to activate the Majlis’ oversight role, because it represents the people’s opinion, enjoys a high position among the higher authorities and comprises a number of people highly educated in different fields and specialties.<sup>26</sup>

<sup>25</sup> An interview with Ash- Shura Council member, the Head of the Foreign Affairs Committee, Dr Mohammed Al- Hilwa, Riyadh, 10/5/2003.

<sup>26</sup> A number of educated Saudis submitted, on September 2003, a petition to the Crown Prince, Prince Abdullah Bin Abdul Aziz, asking for political and economic reforms and expressing their wish to have the members of Majlis Ash-Shura appointed pursuant to an election process, and to vest more authorities upon the Majlis for monitoring financial issues.



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### 6.3.3 Inability to debate general issues

Among the posed questions is: Why is the oversight role of the Majlis limited to the issues referred to it by the government?<sup>27</sup> This limitation prevents the Majlis from discussing very serious issues that are current in Saudi society such as poverty, the spread of Rift Valley Fever in the southern province before three years ago, and religious extremity. The Majlis has not been given the chance to discuss these topics as they occur. The Majlis has discussed these issues when discussing the annual reports of the ministries concerned with each issue. Al-AshShaikh believes that this fact causes the Majlis to be occupied with the discussion of the marginal issues systematically referred to it, and leaves aside other fundamental issues, which are more vital to people's lives:

I really wished that upon announcing the volume of the General Debit, the Saudi Majlis Ash-Shura would have taken the precedence in questioning the Minister of Finance and National Economy, discussed with him the reasons behind the formation of this debit and the means of eliminating it, and inquired about the impediments that hindered reducing this volume, and above all how these debits occurred.<sup>28</sup>

One of the academics interviewed by the researcher supported the idea of giving the Majlis the right to initiate a debate on the negative phenomena appearing in Saudi society, he wondered if the Majlis has offered any solutions to overcome the poverty problem since the visit of Prince Abdullah to some poor districts in the City of Riyadh, and whether the Majlis has discussed this problem with the competent bodies and authorities. He believed that there is a persistent need for enhancing the oversight

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<sup>27</sup> The Law of Majlis Ash-Shura, the Article 15 stipulates that “ The Majlis shall express its opinion on general policies of the State referred by the Prime Minister.”

<sup>28</sup> Al-AshShaikh, Mohamed, An Article published in Al Aqtesadia newspaper, 12/1/2002- 28/10/1422H, p. 5.



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function through vesting greater authority in the Majlis in order to help it to better perform its duties.<sup>29</sup>

#### **6.3.4 Inability to exercise a direct oversight**

Since the Law of the Majlis Ash-Shura does not authorize it to practise a direct oversight role over the executive power, and as there is no specific body entrusted with this task, the Council of Ministers is currently handling this job. The Council of Ministers studies the resolutions of the Majlis mainly regarding the annual performance reports and sends these resolutions to the concerned ministry for it to study and attempt to adopt the recommendations and opinions given by the Majlis in its relevant decisions. However, the concerned ministry is free from any obligations regarding whether to implement or ignore the resolutions of the Majlis owing to the absence of a mechanism for any follow-up by the Majlis or any other concerned authorities. One member who was interviewed was of the view that the absence of a follow-up mechanism for the implementation of the Majlis' resolutions regarding the annual reports prevents the Majlis from realizing the results of its resolutions, whether they have been adopted or rejected. If a minister were officially appointed to represent the Majlis at the Council of Ministers, he could participate in conveying the Majlis' opinion, solving this issue, and set a channel for a co-operative mechanism between the two councils.<sup>30</sup>

It is also noted the Law of Majlis Ash-Shura imposes some limits that restrict its oversight power. Articles 22 and 24 stipulate that the Chairman of Majlis Ash-Shura

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<sup>29</sup> An Interview with Dr Mohamed Al-Jarba, Riyadh, 15/6/ 2003.

<sup>30</sup> An interview with the Majlis' member, Dr Al Thnyan, Riyadh, 13/7/ 2003. This interview took place before the King appointed Dr Saud Al Mutahami as State Minister and a member of the Council of Ministers for the affairs of Ash-Shura Council, December 23, 2003.



must submit a request to the Prime Minister before summoning any government official to a Council meeting when matters relating to the latter’s jurisdiction are discussed. Furthermore, the Chairman must submit a request to the Prime Minister for the provision of information and documents about governmental ministries and departmental programmes and activities. This restriction has weakened the monitoring power of the Majlis keeping it unable to directly monitor the ministries or the governmental departments. Being obliged to make recourse to the Council of Ministers when practising its oversight power renders its oversight function ineffective.

In order to ascertain the opinions of the Majlis members, a question was posed in the questionnaire regarding the Majlis’ need to have a direct monitoring function over the ministries and the governmental departments. About 86.4 per cent of the sample agreed on this need, and 47.2 per cent of them strongly agreed. Only 8.8 per cent of the members were against this idea. The results shown in Table 6.8 highlight the importance of authorizing a direct oversight role to be played by the Majlis over the executive power. According to the majority opinion, this will bring about various positives, and improve and develop government performance. This is in line with the objectives of Ash-Shura in Islam and complies with the requirements of the modern age.

**Table 6.8    The Majlis Ash-Shura needs to practice its oversight role directly, and not through the Council of Ministers**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	11	8.8	8.8	8.8
	Do not know	6	4.8	4.8	13.6
	Agree	49	39.2	39.2	52.8
	Strongly agree	59	47.2	47.2	100.0
Total		125	100.0	100.0	



#### **5.3.4 Conclusion**

In this chapter, the researcher has tackled the oversight function of Majlis Ash-Shura and identified the oversight authorities and tools empowered to it. It was noted that, in spite of the weakness of its oversight authority, the Majlis endeavoured during its three terms (1993-2003) to develop its function by adopting tools which are not stipulated in its Law or internal by-laws. For example, it founded a Petition Committee, which is concerned with receiving citizens' complaints and proposals. Furthermore, it launched field visits to cover the important projects undertaken by specific governmental bodies.

At the same time, it was noted that the tool most adopted by the Majlis for overseeing the performance of the executive power is the discussion of the annual performance reports of ministries and governmental departments. The Majlis regards this tool as a window through which it can view the performance of the executive power, review State policy and—whenever possible— criticize any negative aspects.

In addition, it was noted that during the third term of the Majlis, its oversight performance increased and involved serious discussions conducted with ministers and officials. Meanwhile, the resolutions and recommendations of the Majlis conveyed severe criticisms to some ministries and departments.

An assessment of the oversight function of the Majlis, as viewed by the members, has been conducted in which the members expressed their opinions clearly and with great transparency, which helped to generate useful information. The results of the research indicate that 70.4 of the study sample believe that the oversight function of the Majlis is ineffective. Furthermore, 73% think that the most apparent reason behind this



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ineffectiveness is the weakness of the oversight authorities and tools adopted by the Majlis while practising its oversight role over the executive power.

While the aim of the previous chapter and this chapter was to identify the function of Majlis Ash-Shura at the domestic level, examine the effectiveness of its legislative and oversight functions and understand the factors that affect its functions, the aim of the following chapter is to identify the role of Majlis Ash-Shura at international level.



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## Chapter Seven: The External Role of the Majlis Ash-Shura

### 7.1 Introduction

The aims of this chapter are to introduce the actual role played by the Majlis Ash-Shura in the external affairs of the Kingdom of Saudi Arabia. It also aims to examine the views of the Council members on the extent of the effectiveness of this role and to determine the obstacles that have been faced. Before discussing the role of the Council, it should be made clear that the Council's role in this field is considered new and, therefore has not received a great deal of attention or consideration from researchers and specialists. This has made the participation of the Council in making decisions regarding external affairs little known in the Kingdom.

The researcher agrees with the view of Dr Nofal<sup>1</sup> that the establishment of Ash-Shura Council in 1993 added a new and important political institution to the systems responsible for the external affairs decision-making process in the country, which can be divided into official and non-official governmental systems. The King, the Council of Ministers, the Majlis Ash-Shura and the concerned governmental departments represent the official system. However, the non-official governmental systems consist of groups of individuals who have a major influence on government decisions. Among these groups are some of the elite Princes, *Ulama* (religious scholars), businessmen and tribal leaders. Some of these sectors exert an effective and powerful influence that effects the decisions regarding external affairs because of the positions they occupy and their relationship with the government.<sup>2</sup>

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<sup>1</sup>Nofal, Adel, Foreign Policy of the Kingdom of Saudi Arabia in 100 years, (Riyadh: Diplomatic Studies Institute, 1999), pp. 385-417.

<sup>2</sup> Ibid, pp. 385-417



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As a specialist in Saudi affairs, Al-Qabbaa believes that “the external affairs decision-making in the Kingdom is carried out at three levels:

- The first is concerned with the King, the Crown Prince, and the second Deputy Prime Minister. At this level, the general plans and the drawing of the final framework of the state policy towards current issues are decided. The Foreign Minister receives instructions at this level from the King because he is the ultimate authority of the country.
- The second level is concerned with the responsibility of the Council of Ministers, where the information or results obtained by the Foreign Minister at international conferences and meetings with his counterparts are discussed. The Council of Ministers studies and discusses the country’s external policy and its standing towards various issues in the light of what the Foreign Minister presents.
- The third level is related to the means and methods of administering external affairs and the means of execution, which is the responsibility of the Foreign Ministry and concerned departments”.<sup>3</sup>

The researcher believes in adding another level to the aforementioned levels relating to the role of Ash-Shura Council in the systems responsible for the external affairs decision-making process in the country.<sup>4</sup>

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<sup>3</sup> For more information about how the external affairs decision- making in the Kingdom of Saudi Arabia is done, see Dr Al-Qabbaa, Abdullah, Saudi Foreign Policy, Riyadh, (the Farazdaq Press, 1986). pp. 160-172.

<sup>4</sup> The reason that al-Qabbaa did not include the Council within these levels is because the Council had not been established when his book was published in 1986.



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## 7.2 Participation of the Majlis in external affairs

Before discussing the participation of the Majlis in external affairs, it should be made clear that the Council does not play a direct role in external affairs, as it does with its legislative function. This does not mean that the Council has no role in this particular area: rather, it practices this role through directions and the presentation of opinions and advice to the government and by performing later oversight on the performance of the Foreign Ministry (the executive body of foreign affairs). The head of the Foreign Affairs Committee<sup>5</sup> believes that “the Council practices its external role like any other legislative council in the world. It plays this role by studying the international agreements and treaties, and discussing the Foreign Ministry’s annual reports. On the basis of the annual reports of the Foreign Ministry, the Council presents some recommendations that contribute to the improvement in the performance of the ministry concerned with foreign affairs”.

The Council has recently started to perform its external role through a number of activities such as, embarking on foreign visits, contributing to international and regional parliamentary conferences, establishing friendship groups with parliaments of other countries and issuing political statements. These activities are similar to the activities performed by other national councils and parliaments and is known as “parliamentary diplomacy”.<sup>6</sup> This parliamentary diplomacy differs from the normal (official) diplomacy practiced by the government or political elite in achieving the objectives of the foreign policy of the country. It is a diplomacy that is characterized as quiet diplomacy with a high endurance, which requires constant follow-ups and a level of patience that normal diplomacy doesn’t have. This is because normal diplomacy deals with the authorities of direct decisions, i.e. decisions made by the ministries of foreign affairs and by

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<sup>5</sup> An interview with Ash- Shura Council member, and head of the Foreign Affairs Committee, Dr Mohamed Al Hilwa, Riyadh, 10/5/2003.

<sup>6</sup> Bojah, Salahaldeen, Arab Parliamentary Union magazine, vol. 81, Oct 2001, p32.



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governments, while parliamentary diplomacy focuses its activity on parliamentary councils that apply pressure to governments in order to guide them in specific directions and toward taking certain positions. Therefore, the results reached by parliamentary diplomacy are not as quick as those of normal diplomacy.<sup>7</sup>

In brief, it may be said that the external role performed by the Council at the present time is complementary to that of the government in the area of foreign affairs. This was affirmed by the deputy of the Foreign Ministry<sup>8</sup> when interviewed by the researcher by saying, “the activities of Ash-Shura Council that are included in its jurisdiction at the external level are complementary, and underpin the general framework of the Kingdom’s activities and foreign relations. This activity is considered as a major supporting factor in the area of the state’s foreign relations”.<sup>9</sup>

The Chairman of the Council occupies a fundamental position in the management of the external relations of the Ash-Shura Council since he represents it in all of its international obligations. Also, the Vice-Chairman of the Majlis can undertake specific international missions. In addition, the Council has formed a committee for dealing with the foreign affairs (the Foreign Affairs Committee) that come under its jurisdiction in order to achieve effective performance in this field. This committee performs an important role in studying topics and issues related to external affairs. These can be economic, cultural or security issues and agreements between the Kingdom and a number of Arab, Islamic and other friendly states. The Committee also carries out the study of international and regional agreements and treaties, to which the country has

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<sup>7</sup> Ibid.

<sup>8</sup> An interview with H.H. Prince Dr Turki Mohammed bin Saud Al Kabir Al Saud, Deputy of the Foreign Ministry for Political Affairs, Riyadh, 20/6/2003.

<sup>9</sup> Ibid.



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joined or will join in the future, in addition to studying border agreements between the Kingdom and neighbouring states. When the Committee has finished studying these agreements and treaties, it raises a detailed report for the Council including its recommendations on those agreements and treaties. Among the other duties of the Foreign Affairs Committee is the study of the annual performance reports of the Ministry of Foreign Affairs. In addition to this, other activities of the Committee include holding annual non-official meetings with the Foreign Minister in which the Committee members are informed of any new developments in global political issues and the international standing of the Kingdom of Saudi Arabia. The Foreign Minister answers the questions and queries of the Committee members regarding state foreign policy.<sup>10</sup>

The head of the Foreign Affairs Committee believes that “the Committee contributes to foreign affairs decision-making through the study of international agreements and treaties referred to it by the government”.<sup>11</sup>

The head and members of the Foreign Affairs Committee hold meetings with official parliamentary delegations visiting Ash-Shura Council. The head of the Committee sometimes receives ambassadors and diplomats who have been officially approved by the Kingdom.

In addition to these activities the Committee should perform other important roles. In this regard, the researcher agrees with the views of the Foreign Minister’s assistant on the importance of finding direct contact relations and channels between the Council’s Foreign Affairs Committee, and its counterparts in other parliaments in order to be able

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<sup>10</sup> An interview with the Director of the Parliamentary Relations Department in the Majlis Ash- Shura, Abdul Hakim Al-Mouamer, Riyadh, 18/6/ 2003.

<sup>11</sup> An interview with the head of the Foreign Affairs Committee, Dr. Mhammed Al- Hilwa, 10/5/2003.



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to explain, on a continuous and regular basis, the view of the Kingdom on international affairs.<sup>12</sup> Moreover, the researcher believes that giving the Committee the right to issue political statements on foreign political issues, in a way that is consistent with the Kingdom's foreign affairs policies is of major importance, whether it is in the name of the Council or the Committee.

Besides this, the Committee and, at the beginning of its third term, the Council has established a Parliamentary Relations Department with the mission of organizing the Council's contributions to Arab, Islamic and international parliamentary unions, and of organizing the relations of the Council with other parliaments and councils. The establishment of this department has contributed to the preparation and arrangement of the Council's delegations, participation in the activities of different parliamentary unions and to mutual visits between the Council and other parliaments and councils.

In conclusion, the Council contributes on external affairs through a variety of authorities and activities. These authorities and activities as exercised by the Assembly will be discussed in the following pages.

### **7.2.1 Studying international agreements and treaties**

The Law of the Council has stipulated<sup>13</sup> that the jurisdiction of the Council includes the study of international agreements and treaties that are referred to it by the Prime Minister and suggests its related recommendations .

The Council of Ministers participates with the Majlis in the study of international agreements and treaties.<sup>14</sup> This role of the Majlis begins after the agreements and

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<sup>12</sup> Madani, Nizar, assistant of the Foreign Minister, (a lecture presented to the Modern Majlis Ash-Shura symposium), Riyadh, 1/1/2002-15/10/1422H, p. 8.

<sup>13</sup> The Law of Majlis Ash-Shura, Article15: section (b) and Article 18.



treaties have received the initial signature of the government and been referred by the Prime Minister. In his turn, the Chairman of the Majlis transfers the draft agreement to the Foreign Affairs Committee for studying. After the Committee has completed the study, it is transferred to a steering committee, which reviews the agreement to assure that it contains all the documents and study procedures. Then, all the members discuss it in a Council session. The head of the Foreign Affairs Committee reads the Committee's report on the agreement in front of the Council members. Once the members of the Council have finished discussing the agreement in session, the draft agreement is presented for voting. After of the draft agreement has been approved, a resolution is raised for the King<sup>15</sup> who, in his turn, refers it to the Council of Ministers for studying. If the Council of Ministers approves the draft of the agreement, a Royal Decree is issued approving the agreement.<sup>16</sup>

In the light of the above discussion, it is clear that the role of the executive authority (the Council of Ministers) in the study of draft agreements and treaties is represented by the advance negotiation, preparation and study of the drafts in addition to signing them, whereas the role of the Majlis Ash-Shura is limited to studying the agreements and either approving or rejecting them;<sup>17</sup> it does not have the right to discuss them in advance.

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<sup>14</sup> According to Article 20 of the Law of the Council of Ministers and Article 18 of the Law of Majlis Ash-Shura international treaties and agreements shall be issued by Royal Decrees after being studied by the Council of Ministers and the Ash-Shura Council.

<sup>15</sup> The Law of Majlis Ash-Shura, Article 17.

<sup>16</sup> For more information on international agreements approval procedures, see: Abdul Rahman Al Shalhoob: Constitutional System between Sharia and Comparative Law, op.cit. p. 256-262.

<sup>17</sup> Former chairman of Ash-Shura Council, Mohammed Ibin Jubair, in an interview with Al-Wattan newspaper, 5/1/2001- 2/3/1422 H. p.15.



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Table 7.1 shows that the Council studied and approved 168 bilateral agreements and international treaties during the study period (1993-2003). Generally, it shows an increase in the number of agreements and treaties, which are referred from the government to the Council. For example, in the first session (93-97), the number reached 58, and then rose to 68. However, in just the first two years of the third term, the number reached 42. The table also shows that the Council approved 86 agreements and treaties between the Kingdom and a number of Arab, Islamic, and other friendly states with aim of developing co-operation and relations at the economic, commercial, cultural and security level. This indicates that the level of co-operation and confidence between the government and the Council is improving. It also shows the growing role of the Majlis in the foreign affairs decision-making process of the Kingdom.



**Table 7.1 Activities of the Majlis Ash-Shura in studying international treaties and agreements 1993-2003**

Term/Year	International Agreements	Percentage	Co-operation Agreements and Regulations (laws)	Percentage	Total
1/1	8	88.89%	1	11.11%	9
1/2	6	35.29%	11	64.71%	17
1/3	6	75.00%	2	25.00%	8
1/4	15	62.50%	9	37.50%	24
1 <sup>st</sup> Term total	35	60.34%	23	39.66%	58
2/1	4	30.77%	9	69.23%	13
2/2	3	50.00%	3	50.00%	6
2/3	8	50.00%	8	50.00%	16
2/4	19	57.58%	14	42.42%	33
2 <sup>nd</sup> Term total	34	50.00%	34	50.00%	68
3/1	6	37.50%	10	62.50%	16
3/2	7	26.92%	19	73.08%	26
3 <sup>rd</sup> Term total	13	30.95%	29	69.05%	42
Total	82	48.81%	86	51.19%	168

**\*Percentage was calculated in relation to the total**

**Researcher’ s own calculation; sources: the Majlis Data Archive; the annual report of the Foreign Affairs Committee**

**7.2.2 Listening to the government’s statements**

After studying the agenda of the Council and its minutes, news statements and releases, it was found out that the government informs the Council members about the Kingdom’s relations with other countries and the decisions it issues regarding external affairs. To make sure of the members’ views on this issue, a statement was provided in the research questionnaire about the extent of the government’s willingness to inform the Council of new developments in its external affairs. As shown in Table 7.2, 59.2 per cent of the sample showed their satisfaction with how the government informs the Council of any developments in foreign affairs, while 24 per cent considered what the government does in this regard as insufficient.



**Table 7.2 The government is willing to keep the Majlis Ash-Shura updated with developments in Saudi external affairs**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	8	6.4	6.5	6.5
	Disagree	22	17.6	17.9	24.4
	Do not know	19	15.2	15.4	39.8
	Agree	69	55.2	56.1	95.9
	Strongly agree	5	4.0	4.1	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
	Total	125	100.0		

In studying the agendas of the Council's sessions held during the period 1993-2003, the researcher found that King Fahd and Crown Prince Abdullah had between them delivered ten annual speeches in front of the Council<sup>18</sup> during the opening of the annual sessions of the Council's terms. In their speeches, they explained to the Council members the Kingdom's internal and external policies, and its positions and political attitudes towards current regional and international issues. The researcher also noted that, since the third term, it has become a tradition for the King, the Crown Prince and the Prime Minister to receive the Chairman and the specialized committee heads of the Council to inform them of any important new developments in the Kingdom's foreign affairs and any developments in regional and international situations that may affect the country.

The majority of the sample agreed regarding the government's willingness to inform the Council of the developments in its external affairs. Also, the statistics indicate that the Foreign Minister has a clear role in the Council to deliver statements in front of its members, informing them of new developments in the foreign relations of the state and of important decisions that the government is intending to take. The Foreign Minister

<sup>18</sup> Article 14 of the Law of the Majlis states that "the King or whomever he may disputer, shall deliver an annual Royal speech at Majlis Ash-Shura on domestic and foreign policy of the state".



attended the Council sessions during the first and second terms, his presence becoming periodical in 2001 when he came to the Council and informed its members of the impact of the September 11<sup>th</sup> incidents on the Kingdom and its people. He also discussed the campaigns to defame the image of Saudi Arabia and connect Islam with terrorism. He also informed the Council of the efforts being exerted by the state to counter terrorism.<sup>19</sup>

In another session, the Foreign Minister informed the Council members of the government's efforts regarding the Palestinian issue; of the confidential letters exchanged between the Saudi and United States of America governments answering questions from Council members;<sup>20</sup> and of the position of the state regarding the 2003 Iraq war.<sup>21</sup>

To be fair, the government has, during the third term, been willing to inform the Council of every development in its foreign affairs, even if the Council did not ask for this. This confirms the desire of the government to consult and co-operate with the Council in directing the foreign affairs of the country. The researcher thinks that the rise in internal and external challenges faced by Saudi Arabia has served to strengthen the co-operation between the government and the Majlis.

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<sup>19</sup> In a study published in the International Policy Magazine (Assiyassa–Al Dawliya) issue No.148, April 2002, p.65-73, some researchers, such as Dr Salah Zarnoga, believe that Saudi Arabia, among the Arab and Islamic countries, is the most targeted by some American campaigns since the September 11<sup>th</sup> incidents. Also, this country is more concerned to free Islam from accusations of terrorism for several reasons: 1. This country is the origin and the abode of Islam because of its Islamic heritage. 2. Its rejection to participate in some coalitions led by Washington to strike Islamic countries. 3. Among the names on the American list of the casualties of the September 11<sup>th</sup> 2001 terrorist attacks were some Saudi citizens.

<sup>20</sup> Al- Shrian, Dawood, an article in the Al-Hayyat newspaper, 25/10/2001- 25/ 8/8/1422 H, p. 3.

<sup>21</sup> The Secretariat General of the Council, the agenda of the sixty-second session, 2003.



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### 7.2.3 Releasing of political statements

The Council expresses its position towards political issues and developments on the domestic and international affairs through the release of political statements, or through a statement from the Chairman of the Council, usually during the opening of the Majlis weekly-session.

The statements released from the Council can be considered as having two meanings: either a confirmation that the government has taken a certain position or attitude in its foreign affairs, or an expression of an opinion or hint as to the position of the Council towards the government regarding the necessity to consider its foreign policy. Only 7 political statements were issued from the Council during its three terms in the period 1993-2003. In the first and second years of the third term the Council issued more political statements than had previously been the case. This might be due to the fact that the third term coincided with many important political incidents both within the country and in the Gulf region as a whole.

One Saudi commentator has directed severe criticism at the Council for failing to perform its role to meet the challenges that the country faced after the September 11<sup>th</sup> incidents. For example, it did not release political statements or launch planned political moves to deal with these issues.<sup>22</sup>

It seems that it is unjust to hold the Council wholly responsible, as it has performed the required role according to the specified jurisdiction set out in its basic law. Indeed, a

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<sup>22</sup> Al-Qarni, Ali, in an article published in the Al-Jazirah newspaper (18/1/2003- 15/11/1423 H, p. 17).



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problem lies in the current authority given to the Council, which hinder it and limit its movement in the foreign affairs arena.

It has been noted that the Council, especially after the September 11<sup>th</sup> incidents, became more active in releasing political statements on local, Arab and international incidents.<sup>23</sup>

After the terrorist attacks in America on September 11<sup>th</sup> 2001, the Council released a statement expressing its condemnation of these incidents which resulted in the deaths of many innocent people. Moreover, the Chairman of the Council paid a visit to the Embassy of the United States of America in Riyadh and expressed his sympathy for and condolences to the victims of the terrorist attacks and their families.<sup>24</sup>

The Council released other statements explaining its position regarding various Arab and Islamic issues. For example, it released a statement supporting the Palestinians' cause and the legitimate claims of the Palestinian people. The Council also denounced the Israeli settlements, racial standards and practices when dealing with civilian issues.<sup>25</sup>

In a meeting with the United Kingdom Prime Minister, Mr Tony Blair, during his visit to the Council Chambers, the Council demanded that a solution to the Palestinian issue be found, with the return of the legitimate rights of the Palestinians and the continuing of the efforts of the peace process.<sup>26</sup>

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<sup>23</sup> The Secretary General of the Majlis, a press release, Saudi Press Agency, 25/3/2003- 22/1/1424 H.

<sup>24</sup> Okaz daily newspaper, 20/9/2001- 3/7/1422H p. 24.

<sup>25</sup> Minutes of the Council session held on 9/4/2003.

<sup>26</sup> Minutes of the Council session held on 5/11/2001-19/8/1422 H.



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As for the war on Iraq 2003, the Council released a statement supporting all the steps taken by the government to save the region from the consequences of war. These steps included demanding an immediate stop to the war on Iraq, resorting to the United Nations Security Council and applying the resolutions of International Law.<sup>27</sup>

In addition, the Council released a common statement with the Iranian Shura Council during the visit of its chairman to the Kingdom. The two councils expressed their rejection to and denial of any unilaterally taken standards against Iraq as being contrary to International Law.

It is true that these statements are merely expressions of members' opinions and views and as such have no obligatory sense on the government; they do, however, carry some weight inasmuch as the government may adopt the views of the Council as being an expression of the attitudes of the public.

#### **7.2.4 Establishment of parliamentary friendship groups**

The Council has established friendship committees with the councils and parliaments of other countries, with the aim of strengthening relationships and establishing personal relations between the members of the different bodies; this serves to promote foreign relations and achieves maximum levels of co-operation and coordination at international parliamentary conferences and gatherings. Table 7.3 shows that the Council has established 10 friendship groups with a number of Arab, Islamic and other friendly councils and parliaments. It is noted that the Council became active in forming friendship committees in its second term, where the number of these committees

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<sup>27</sup> Minutes of the Council session held on 30/3/2003-27/1/1424H.



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reached a total of 5. The apparent gradual increase continued so that there were 4 committees in the first two years of the third term alone. This shows the desire of the Council to develop its parliamentary relations and strengthen its foreign role and at the same time shows the desire of the Majlis to benefit from the modern parliamentary tools that suit the current phase and do not violate the Islamic principles of the Shura.

#### **7.2.5 Conducting external activities**

Throughout its three terms, the assembly has focused on the development of its external activities and this was extremely clear in the first two years of its third term. The assembly's foreign activities aim to achieve the following objectives: "First, to consolidate its relations with the Councils and parliaments of other countries, thus benefiting from general relations between the Kingdom and other countries. Second, to promote the country and the Islamic principle of Ash-Shura abroad, especially to foreign parliaments. Third, to familiarize foreign parliaments and international parliamentary organizations with the position of the Kingdom on international issues, and more specifically, on the Arab and Islamic issues. Fourth, to develop the co-operation of the Majlis within the framework of international organizations".<sup>28</sup>

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<sup>28</sup> The Majlis Ash-Shura in the Kingdom of Saudi Arabia, op.cit. p. 32.



Table 7.3 The activities of the Majlis Ash-Shura in external affairs 1993-2003

Term/Year	Conducting official visits	Percentage	Receiving parliamentary delegations	Percentage	Receiving foreign delegations	Percentage	Receiving ambassadors	Percentage	Participation in parliamentary conferences	Percentage	Formation of friendship committees	Percentage	Total
1/1	2	02.22%	1	01.11%	26	28.89%	60	66.67%	0	00.00%	1	01.11%	90
1/2	4	06.90%	4	06.90%	28	48.28%	21	36.21%	1	01.72%	0	00.00%	58
1/3	5	03.73%	6	04.48%	100	74.63%	23	17.16%	0	00.00%	0	00.00%	134
1/4	4	05.80%	6	08.70%	34	49.28%	24	34.78%	1	01.45%	0	00.00%	69
1 <sup>st</sup> Term total	15	04.27%	17	04.84%	188	53.56%	128	36.47%	2	00.57%	1	00.28%	351
2/1	3	04.11%	5	06.85%	41	56.16%	23	31.51%	1	01.37%	0	00.00%	73
2/2	9	09.09%	7	07.07%	66	66.67%	14	14.14%	1	01.01%	2	02.02%	99
2/3	3	02.54%	7	05.93%	85	72.03%	16	13.56%	5	04.24%	2	01.69%	118
2/4	1	00.97%	6	05.83%	70	67.96%	17	16.50%	8	07.77%	1	00.97%	103
2 <sup>nd</sup> Term total	16	04.07%	25	06.36%	262	66.67%	70	17.81%	15	03.82%	5	01.27%	393
3/1	0	00.00%	7	05.43%	87	67.44%	27	20.93%	6	04.65%	2	01.55%	129
3/2	2	01.40%	6	04.20%	96	67.13%	30	20.98%	7	04.90%	2	01.40%	143
3 <sup>rd</sup> Term total	2	00.74%	13	04.78%	183	67.28%	57	20.96%	13	04.78%	4	01.47%	272
Total	33	03.25%	55	05.41%	633	62.30%	255	25.10%	30	02.95%	10	00.98%	1016

\*Percentage was calculated in relation to the total

Researcher' s own calculation; sources: the Majlis Data Archive; annual reports of the Foreign Affairs Committee



### 7.2.5.1 *Conducting official visits*

Richards<sup>29</sup> points out the importance of trips abroad for members of legislative councils by saying: “International travel is valuable for promoting understanding of conditions abroad through the opportunities it provides for observation and conversation.” Delegations from the Majlis made several official visits to Arab, Muslim and other friendly countries where they met with presidents, other high-ranking officials, speakers and members of parliaments. Table 7.3 indicates that the Majlis’ delegation has made 33 visits to other countries’ councils and houses of parliament. Also, the table shows that the Majlis’ delegations visited 15 countries in the first term and 16 countries in the second term. It is noted, however, that the number of official visits decreased to only two in the first two years of the third term. This can be attributed to the fact that the assembly, in the early years following its foundation, as a new political institution needed to establish relations with other councils and parliaments, especially those in countries having more influence at the international, community or regional level, such as the United States of America, Russia, the United Kingdom, France, China, Belgium, Germany, India, Egypt, Iran and Japan.

Recently, it has been noticed that members of the Council have joined governmental delegations on various occasions, such as the international visits of the Saudi Crown Prince to the United States of America and some European countries, the visit of the Saudi Foreign Minister to the United States of America after the incidents of September 11<sup>th</sup> and the visit of Saudi governmental delegations to negotiate with the World Trade Organization.<sup>30</sup>

Before conducting international travel, members get a great amount of help and information from government ministries and agencies concerned with international

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<sup>29</sup> Richards, Peter G. *Parliament and Foreign Affairs*, 1967, London: George Allen & Unwin, pp.52-53.

<sup>30</sup> Shatta, Bakri, Vice-Chairman of the Majlis, *Okaz* newspaper, 12/11/2002- 7/9/1423 H, p. 32.



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affairs.<sup>31</sup> These new trends of co-operation between the government and the Assembly give an indication of how the Majlis' role in the Saudi external affairs decision-making process is increasing.

#### ***7.2.5.2 Receiving parliamentary and official delegations***

As shown in Table 7.3, above the Majlis Ash-Shura received 55 heads of parliaments and councils of foreign countries, accompanied by some members of those parliaments. These parliamentary delegations often have open meetings with the Chairman and a number of members of the Assembly, which offer opportunities for the members of the Majlis and the visiting members of parliament to discuss any issues and problems that may be of concern to them. The visiting members of parliament usually meet key Saudi leaders such as the Crown Prince, the second Deputy Premier and the Foreign Minister. In general, the Majlis Ash-Shura enjoys good relations with most of the legislative councils of the world, has frequent reciprocal visits and meetings and establishes friendship committees with other parliaments.

In all, more than 633 presidents, prime ministers, ministers of defence and foreign affairs, heads of international organizations, presidents of companies, clerics and intellectuals from other countries have visited the Majlis. International visitors have included Mr George Bush senior when he was President of the United States of America, the ex-President of the Islamic Republic of Iran Mr Rafsanjani, Mr Tony Blair, the Prime Minister of the United Kingdom, Prince Charles, Crown Prince of the United Kingdom, and Mr Mahathir Mohammed ex-Prime Minister of Malaysia. In addition, the Council received 255 ambassadors during its three terms.

On reading the figures in Table 7.3 it is noted that the number of parliamentary and official delegations and ambassadors visiting the assembly, during the study period, has

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<sup>31</sup> An interview with Mr. Al-Maummr, Abdulhakim, Riyadh, 19 / 6 / 2003.



shown a successive increase throughout its three terms. Recently, it has been noticed that, most official delegations visiting the Kingdom have met the Chairman of the Majlis or its members. This may give an indication of the increasing political role of the Majlis in the Kingdom.

In general, receiving the parliamentary and council members of foreign countries helps the Majlis to establish good relations with other parliaments and promote itself abroad. The Secretary General<sup>32</sup> pointed out the importance of establishing relations and communications with other parliaments and councils by saying: “The Majlis’ relations with other parliaments promoted the Majlis abroad and helped to get its membership of the International Parliamentary Union (IPU) within a short time”.

#### ***7.2.5.3 Participation in parliamentary conventions***

As shown in Table 7.3 it is noted that the Majlis Ash-Shura was not active in participating in parliamentary conferences and meetings during the six years following its establishment. After 1997, however, the assembly began to take an active role in both parliamentary conventions and the meetings of organizations such as the Arab Inter-Parliamentary Union and the Union of Asian Parliaments, and this participation is notably increasing. The occasions on which the Assembly has actively participated now total more than 30. In addition, it participated in the foundation of the Islamic Parliamentary Council (USIPC), on the 7<sup>th</sup> of April 2003 and has become a member of the Inter-Parliamentary Union (IPU).<sup>33</sup> One member<sup>34</sup> described this membership as “the Majlis Ash-Shura’s prime achievement in its external affairs”; this affiliation to the IPU is significant since such membership requires a council or parliament to have

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<sup>32</sup> An interview with the Secretary General of Majlis Ash-Shura, Dr Hommud Al-Badr, Riyadh, 13/7/2003.

<sup>33</sup> The Majlis became a member of the Inter-Parliamentary Union (IPU) after a resolution adopted by the Inter-Parliamentary Union at its 17th session held in Santiago De Chile on 7<sup>th</sup> April 2003.

<sup>34</sup> An interview with the Council member, the head of the Foreign Affairs Committee, Dr Mohammed Al Hilwa, Riyadh, 6/5/2003.



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legislative powers. The Deputy Foreign Minister attributes this successful achievement to the co-operation between the Majlis Ash-Shura and the Foreign Ministry.

It is hoped that through its membership of the IPU, the Majlis will benefit from the experience and expertise of the other parliaments in a way that enhances its role at the internal and external level.

In the light of the previous discussion, it is noticed that the participation of the Assembly in Saudi external affairs, showed no hint of participation during its first and second terms, but has since evolved slowly and carefully. The challenges and pressures that the Kingdom has faced both nationally and internationally, especially after the events of September 11<sup>th</sup>, have widened the Majlis' participation in external affairs notably with the support and encouragement of the government. This involvement has included its presence at parliamentary organizations at international and regional levels, its support of the government's foreign policies towards the wars against Afghanistan and Iraq and its contribution to the government's defence of the Kingdom against "the American media and congressmen's criticism of Saudi Arabia for not taking a more effective role in the war against terrorism"<sup>35</sup> and its internal policies.

The Majlis has recently shown an interest in exercising a role in Saudi external affairs. This can be seen by the number of hearing sessions that have been held with the second Deputy Premier and the Minister of Defence, as well as those held with the Interior Minister and the Foreign Minister regarding the domestic and international policies of the government.

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<sup>35</sup> Cordesmen, Anthony H., Saudi Arabia Enters the Twenty-First Century, (published in co-operation with the Centre for Strategic and International Studies, Washington D.C., 2003). pp.118-119. From <http://www.csis.org/burke/saudi21>, (accessed on 11/6/2003).



From the previous discussion, it is noted that over the recent years the Assembly has been able to practice many activities using a variety of tools in order to fulfil its external role. However, the effectiveness of its contribution on the formation and direction of Saudi foreign affairs is little known, despite its various achievements at different levels. It can be argued on the basis of the above discussion, that the participation and activities of the Majlis in foreign affairs raises the following logical question: Does the assembly have an effective role in Saudi external affairs?

### 7.3 Evaluation of effectiveness of the external role

An evaluation of the external role of the Majlis Ash-Shura was made through the eyes of the members of the Majlis and was based on their actual experience. To find out their views on the Council's efficiency, the members were asked to evaluate the following statement: "The external role of Majlis Ash-Shura is effective". Table 7.4 indicates that the majority of respondents (70 per cent) considered the external role of their Council was ineffective, compared to 20 per cent who thought that the Council was effective. Perhaps the reason behind this negative evaluation is that this particular role is still new for the Council in comparison with its legislative and oversight roles. Consequently, the influence of the Assembly on Saudi foreign affairs during the first and second terms of its existence was unknown and has been very limited.

**Table 7.4 The external role of Majlis Ash-Shura is effective**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly disagree	16	12.8	12.9	12.9
Disagree	71	56.8	57.3	70.2
Do not know	12	9.6	9.7	79.8
Agree	22	17.6	17.7	97.6
Strongly agree	3	2.4	2.4	100.0
Total	124	99.2	100.0	
Missing	1	.8		
Total	125	100.0		



To assess the influence of the Council on external affairs, decision-making in a practical way, one should study all the resolutions taken by the Majlis on agreements and treaties proposed by the government during the study period (1993-2003), but this requires much time and effort and is beyond the objective of this thesis. The researcher has chosen 5 resolutions taken by the Majlis on agreements and treaties proposed by the government for each year of the study period (1993-2003) as a sample for study. This means that the resolutions on which the study is based total 50 during the ten-year period. It should be noted that the method applied for the choice of the 5 resolutions of the Majlis for each year was based on decisions taken by the Majlis on complete agreements and treaties proposed by the government. As shown in Table 7.5 the results indicate that the Majlis approved 78 per cent of the studied agreements made between the executive authority and other states and rejected none, which indicates that the Majlis' input into the Kingdom's foreign affairs decision-making has been limited. In addition, the treaties that the government signed with other countries, international or regional bodies were not discussed or debated in advance by the Majlis. The Majlis has only made simple modifications to 2 of the 50 treaties; this may be attributed to the fact that the role of the Majlis Ash-Shura is limited to studying the agreements and either approving or rejecting them. The case being so marked is in contrast to the situation in some neighbouring countries such as Kuwait, where a treaty does not come into force unless it is approved by the Assembly.

Despite the results of the assessment study of the influence of the Council on external affairs decision-making, which indicates that the Majlis' input into the Kingdom's foreign affairs decision-making has been limited, it should be admitted that this assessment is not reliable, because it did not study all the resolutions taken by the Majlis on agreements and treaties proposed by the government during the study period (1993-2003).



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The researcher's study of the Council resolutions regarding agreements and treaties established that some of them were approved by a relatively small majority of the voting Council members. Some members objected to some of the agreements and their number differed from one agreement to another. Sometimes, the approval of members was conditioned by reservations regarding some of the items in the agreements that may contradict the Islamic Sharia law or the regulations currently enacted in the Kingdom. Also, the researcher noticed that the level of acceptance or rejection of the agreements depended on the members' satisfaction that the country and its people would benefit. Moreover, it was noted that the Council has not studied any agreements concluded by the government with other states regarding financial loans. This is because the jurisdiction of approving financial loans for other countries is exclusive to the Council of Ministers.<sup>36</sup>

The researcher believes that it would be better if the executive authority referred all issues related to the external affairs of the Kingdom to the Council for study and approval. In particular, treaties regarding the granting of financial loans, which place financial obligations on the state budget, should be approved by the Council before being concluded because such affairs have a direct impact on the general interest of the country and its citizens.

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<sup>36</sup> The Law of the Council of Ministers, Article 25.



Table 7.5 A study of resolutions taken by the Majlis on agreements and treaties proposed by the government 1993-2003

S#	Name of Agreement	Complete Approval	Formal Modification (in form)	Simple Modification	Rejection
1	Joining the Committee of Outer Space Usage		1		
2	Agreement of Avoiding Duplication of Tax Systems between the Kingdom and France		1		
3	Joining the Kingdom to the United Nations Agreement related to climatic changes		1		
4	The agreement between the Kingdom and Azerbaijan in economic and investment areas			1	
5	Economic Co-operation Agreement between the Kingdom and the Philippines	1			
6	The Security Agreement between the GCC States		1		
7	Security Co-operation Agreement between the Kingdom and Tunisia	1			
8	The Rights of the Child Agreement	1			
9	The Arab Civil Aviation Organization Agreement	1			
10	The General Agreement between the Kingdom and Kazakhstan	1			
11	Kingdom joining the World Trade Agreement (sites)			1	
12	Approval of the Memorandum of Understanding between the Kingdom and Syria	1			
13	Approval of Arab Agreement of Controlling Illegal Trade in Drugs		1		
14	Amendment of the Agreement of the Saudi –Egyptian Co-operation	1			
15	Approval of United Nations Agreement of the Law of Seas		1		
16	Agreement of Economic and Cultural Co-operation between the Kingdom and Uzbekistan	1			
17	The General Agreement between the Kingdom and the government of Russia	1			
18	Memorandum of Understanding between the Kingdom and Italy against Terrorism	1			
19	Agreement of Economical and Technical Co-operation between the Kingdom and Yemen	1			
20	Kingdom joining the United Nations Agreement of Controlling Mercenaries	1			
21	The Security Agreement between the Kingdom and Yemen	1			
22	Saudi- Germany Encouragement and Protection Agreement for Investment	1			
23	Tax Duplication Avoidance Agreement between the Kingdom and Sri Lanka	1			
24	The Kingdom joining the Agreement of Torture Control		1		
25	The Kingdom joining the International Agreement for the Eradication of all Types of Racial Segregation	1			
26	The Kingdom joining the Single Agreement of Drug Control	1			
27	Agreement of Executing Judicial Sentence in the GCC States		1		
28	Saudi-Italy Agreement of Encouragement and Protection of Investment	1			
29	Arab Proclamation for Control of Illegal Acts against Civil Aviation Safety	1			
30	Agreement of Encouragement and Protection of Investment between the Kingdom and China	1			
31	Technical co-operation with the International Food and Agricultural Organization (FAO)		1		
32	The Kingdom joining the United Nations Agreement for Desert Control	1			
33	The Co-operation Agreement between the Kingdom and Morocco in the area of Youth and Sports	1			
34	The Co-operation Agreement between the Kingdom and Tunisia in Cultural Areas	1			
35	The Co-operation Agreement in the Security Area between the Kingdom and Turkey	1			
36	The Security Co-operation Agreement between the Kingdom and Libya	1			
37	Agreement between the Kingdom and Iran in the Economic, Investment and Scientific area	1			
38	Memorandum of Understanding for Visitor Visa Arrangements between the Kingdom and the USA	1			
39	Education Co-operation Agreement between the Kingdom and the People’s Republic of China	1			
40	Co-operation Agreement between the Kingdom and Iran in the area of Transport Services	1			
41	The signed agreement between the Kingdom and Kuwait regarding the immersed area	1			
42	The Kingdom joining the Agreement of Eradication of all types of Segregation of women	1			
43	The Agreement of the Organization of Islamic Conference for the Control of Terrorism	1			
44	The international barriers agreement between the Kingdom and Yemen	1			
45	Agreement for Avoidance of major Industrial Accidents	1			
46	Economic Co-operation Agreement between the Kingdom and New Zealand	1			
47	Common Defence Agreement for the GCC States	1			
48	Co-operation Agreement between the Kingdom and Argentina in the area of Youth and Sports	1			
49	Cultural Co-operation Agreement between the Kingdom and Venezuela	1			
50	Bilateral Co-operation Agreement between the Kingdom and South Africa	1			
Total		39	9	2	0
Percentage to the general total		78 %	18 %	04.0 %	0%

Researcher’s own calculation; source: the Majlis Data Archive



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Some Saudi critics have accused the Majlis of not playing a sufficient role in the country's external affairs. For example, one academic<sup>37</sup> accused the Council of not taking the initiative in defending the Kingdom against several external challenges and pressures (heavily influenced by the events of September 11<sup>th</sup>, 2001), and some external security issues. Another academic<sup>38</sup> stated that the Saudis need the Council's vision and voice in foreign affairs more than before, as the current external challenges can no longer be met by the government alone.<sup>39</sup> This view is supported by Dr Al Rajhi,<sup>40</sup> who called for the Majlis Ash Shura and its Foreign Affairs Committee to play a central role in the formation of Saudi foreign policy.

Dr Hashim,<sup>41</sup> an ex-member of the Majlis, and Dr Al Fawzan<sup>42</sup> criticize the Assembly for not benefiting from its external activities and foreign parliamentary experience by developing its roles in the Saudi political system. Dr Hashim says: "The reason that the Council has not benefited from those activities could be due to the fact that some members of the Assembly believe that the foreign parliamentary experiences are not suited to Islam and Saudi traditions".

On the other hand, other members,<sup>43</sup> who are satisfied with the Council's performance in external affairs, praised its achievement in this field by saying, "The Majlis external activities have resulted in positive achievements. These are represented in the promotion of the country and its Ash-Shura experience abroad, the improved co-operation and relations (politically, economically and culturally) between the Kingdom

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<sup>37</sup> Al-Qurni, Al Jazeera newspaper, op.cit.p.17.

<sup>38</sup> An interview with a Saudi academic specialist who asked to remain anonymous, Riyadh, 4/6/2003

<sup>39</sup> Ibid.

<sup>40</sup> An interview with Dr Saleh Al Rajhi, assistant Professor of Internal Relations, Riyadh, 14/6/2003.

<sup>41</sup> Hashim, H., "My Consultative Experience," Okaz newspaper, 28/1/2003-25/11/1423H.p. 23.

<sup>42</sup> Al- Fawzan, A, an article, Al-Wattn newspaper, 22/2/2003, p.17

<sup>43</sup> Among those members of Ash- Shura Council: Osame Kurdi, (The Role of Majlis Ash-Shura in strengthening the Saudi Relations with other Countries) a paper presented to the Modern Council symposium, Riyadh, 1/1/2002-15/10/1422H, and Dr.Othman Al-Roaf, Ash -Shura magazine published by the Majlis, August 2001.



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and other states, and the joining of the main international and regional parliamentary union”.

Another member<sup>44</sup> of Ash-Shura Council believes that the Council, given the political structure that exists in Saudi Arabia, is playing a suitable role in external affairs. Executive authorities in most countries are the chief authority of foreign policy, but, as he explains, the ruler (the King) in the Kingdom of Saudi Arabia has the final authority in foreign affairs decision-making and has the right to determine the role that the Majlis Ash-Shura plays in the discussion processes which precede decision-making. There are, however, some decisions on current issues in foreign affairs, which require immediate action, but which cannot be addressed by the Majlis being beyond its ability.

Despite this negative evaluation, it has been noticed that a trend has emerged where the Majlis and its members have tended to be more involved in the Kingdom's external affairs than before. The Majlis is attempting to be innovative, creating new tools to use in its external role and seeking membership of the IPU and other inter-parliamentary unions, in addition to accompanying the leadership and government officials as part of the Saudi presence on the international scene. These are examples of the gradual progress being made by the Council towards greater participation in the Kingdom's external affairs.

Finally, it is important to emphasize that it is too early to judge the external role of the Majlis Ash-Shura in the light of the short period of time it has been actively involved in this field.

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<sup>44</sup> An interview with the Council member, the head of the Foreign Affairs Committee, Dr Mohammed Al Hilwa, Riyadh, 6/5/2003.



**7.4 Reasons behind the ineffectiveness**

Having learned that the majority of the respondents (70 per cent) see the external role of the Council as ineffective, it is important to know the reasons behind this negative evaluation. The most important reasons will be discussed below.

**7.4.1 The authority vested in the Council of Ministers limits the external role of the Majlis**

One of the main obstacles to the effective participation of the Majlis in the process of formulating external policy is the authority vested in the Council of Ministers. To know the views of the research sample on this issue, the following statement was included in the questionnaire: “The authority vested in the Council of Ministers limits the role of Majlis Ash-Shura in the formulation of both external and domestic policies”. As can be seen in Table 7.6, 70.4 per cent of the sample agreed or strongly agreed with this statement. On the other hand, 12 per cent of them thought that the authority vested in the Council of Ministers does not limit the role of the Majlis in formulating the Kingdom’s domestic and external policies.

**Table 7.6 The authorities vested in the Council of Ministers limits the role of the Majlis in the process of formulating both external and domestic policies**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	2	1.6	1.6	1.6
	Disagree	13	10.4	10.5	12.1
	Do not know	21	16.8	16.9	29.0
	Agree	61	48.8	49.2	78.2
	Strongly agree	27	21.6	21.8	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		



It is clear from the above results that the functions fulfilled by the Council of Ministers in foreign affairs, and the powers this body possesses, have led to a great negative influence on the effectiveness of the Assembly’s role. The authorities<sup>45</sup> of the Council of Ministers concerning the planning of internal and external policies, reviewing the Majlis Ash-Shura’s resolutions in ratification of international treaties<sup>46</sup> and approving loan agreements<sup>47</sup> need to be reconsidered in a way that permits the Majlis to expand its authority in external affairs.

#### 7.4.2 Lack of powers to oversee foreign affairs

The effectiveness of any council depends on its power to monitor the performance of government in domestic and international domains. To know whether the Majlis has this power or not, the Council members were asked to evaluate the following statement: “The Majlis Ash-Shura has the power to monitor the implementation of the foreign affairs of the Kingdom of Saudi Arabia”. It was found that 52 per cent of the respondents disagreed or strongly disagreed with this statement, while 33 per cent agreed or strongly agreed, and 12.8 per cent were unsure if the Majlis has this power or not. Table 7.7 shows the results of the Council members’ answers.

**Table 7.7 The Majlis Ash-Shura has the power to monitor the implementation of the foreign affairs of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	11	8.8	8.9	8.9
	Disagree	54	43.2	43.9	52.8
	Do not know	16	12.8	13.0	65.9
	Agree	33	26.4	26.8	92.7
	Strongly agree	9	7.2	7.3	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
Total		125	100.0		

<sup>45</sup> The Law of the Council of Ministers, Article 19.

<sup>46</sup> Ibid, Article 19.



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In the light of the respondents' negative evaluation of the Council's oversight role as discussed in Chapter 6, and this negative evaluation of its effectiveness in overseeing Saudi foreign affairs, it can be argued that there is a common dissatisfaction among the Council members regarding the effectiveness of the oversight role in both the domestic and external domains.

The reason that some members<sup>48</sup> agreed with the given statement can be explained by the fact that the authority<sup>49</sup> vested in the Majlis, allows it to discuss the annual performance report of the Foreign Ministry which enables it to monitor the implementation of the foreign affairs of the Kingdom. Although one may agree with them as to the significance of this kind of oversight tool, it is still believed that this tool is not sufficient as such oversight is performed only after the decision has been made. The reason behind the Council members' dissatisfaction with the oversight powers of their assembly can be said to be due to the authority vested in the Saudi Cabinet as discussed earlier. Another reason may be because of the absence of an oversight authority vested in the Assembly with regard to debating on foreign issues, as well as the absence of its right to question the ministers on external issues and matters.

#### **7.4.3 Lack of power to influence on the external affairs**

It is quite clear that the influence of the Majlis on the external affairs of the Kingdom has so far been very limited. To examine whether or not the Council members agree on the influential power of their Council, they were asked to evaluate the following statement: "The Majlis Ash-Shura has the power to influence the external affairs of the Kingdom". The answers of the sample shown in Table 7.8 reveal that 58.4 per cent of

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<sup>47</sup> Ibid, Article 25.

<sup>48</sup> An interview with the head of the Foreign Affairs Committee, Dr Mohammed Al-Hilwa, Riyadh, 6/5/2003.

<sup>49</sup> The Law of Majlis Ash Shura, Article 15.



the respondents disagreed or strongly disagreed with the statement compared with 26.4 per cent who agreed or strongly agreed on the influential power of the Majlis, while 14.4 per cent of them were not certain.

**Table 7.8    The Majlis Ash-Shura has the power to influence the external affairs of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	12	9.6	9.7	9.7
	Disagree	61	48.8	49.2	58.9
	Do not know	18	14.4	14.5	73.4
	Agree	27	21.6	21.8	95.2
	Strongly agree	6	4.8	4.8	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		

Possibly, one of the reasons why the Council members think that their institution does not have the power to influence Saudi external affairs is that (as discussed before) the authority is vested in the Council of Ministers with regard to planning external policy and overseeing its implementation. Other possible reasons may be the lack of oversight power (as discussed earlier), the absence of established procedures for the follow-up and implementation of the outcomes of the Majlis external activities and recommendations and, above all, the lack of participation in the process of formulating the foreign policy of the Kingdom.

### 7.5 Conclusion

The aim of this chapter has been to investigate how the Saudi Majlis Ash-Shura exercises its external role and how it contributes to the country’s external affairs. It has also shown that the participation and activities of the Assembly in external affairs are continuously progressing from one term to another, and how, in the current term it is



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increasing its involvement. This can be clearly seen by the effort the Council has made to adopt new tools and increase its international presence. The chapter has also shown that there is co-operation between the Assembly and the government in the issues and achievements of foreign affairs. This can be seen from the strong support that the government gave to the Assembly with regard to its membership of the IPU and the Assembly's actions in supporting the government in different challenges and matters.

Despite the increase in the contribution made by the Assembly to foreign affairs, this has not enabled it to play an effective role in these external domains, and its input into the country's policy-making has remained limited. In general, the study results show that among the real obstacles encountered, which explain the ineffectiveness of the Council as shown in this chapter, are the authority vested in the Council of Ministers and the lack of authoritative powers assigned to the Majlis to influence the Kingdom's foreign affairs.

It is clear from the questionnaire results that the Council members have a desire to enhance the role of their institution in the external affairs decision-making process in the country and the formation of the Kingdom's external policy. It also shows there is a desire to enhance the tools necessary for contributing effectively to external affairs.

In the following chapter, an attempt is made to examine the opinions of Council members on some suggested ideas for reforms aimed at enhancing the effectiveness of the functions and role of the Council at the domestic and international level.



## Chapter Eight: Improving the Functions and Role of the Majlis

### 8.1 Introduction

While the aims of Chapters five, six and seven were to identify the functions and role of Majlis Ash-Shura at the domestic and international level and determine its effectiveness, the aim of this chapter is to examine the opinions of the Council members on some ideas regarding the enhancement of these functions and role.

### 8.2 The need for improving the functions and role of the Majlis

In order to gather the opinions of members on the necessity of improving the Council, the researcher made the following statement: “There is a need to improve the functions and role of Majlis Ash-Shura to make it more effective”. As shown in Table 8.1, most of the respondents (93.6 per cent) agreed or strongly agreed with this statement, none objected to the statement and only 6.4 per cent of the respondents were uncertain.

**Table 8.1 Distribution of members according to their evaluation of the need of improving the functions and role of the Majlis**

		Frequency	Percent
Valid	Strongly disagree	0	00.00%
	Disagree	0	00.00%
	Do not know	8	06.40%
	Agree	80	64.00%
	Strongly agree	37	29.60%
Total		125	100.00%

It is clear from the above results that improving the functions and role, and promoting the authorities of the Majlis are important priorities that deserve a great deal of attention in any political and administrative reform effort in Saudi Arabia. This might be the



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appropriate time to expand the authority of the Majlis and promote its role in decision-making process in the area of domestic and external affairs, especially as the Kingdom is facing many challenges locally and internationally that have impacted on its security and stability.

### **8.3 The forms of improvement**

To discover which forms of improvement would be most appropriate for the enhancement of the functions and role of the Council in relation to domestic and international affairs, the researcher examined the opinions of the Council members on some suggested forms of improvement. These are discussed in the following pages.

#### **8.3.1 Improving the legislative function**

##### **a. Assign the legislative function to the Majlis Ash-Shura and give it the authority to issue final resolutions**

The members of the Council were asked to respond to the following statement: “The legislative function should be exclusively assigned to the Majlis Ash-Shura, and it should be granted the power to issue final legislations ” Table 8.2 shows that 73.6 per cent of the respondents agreed or strongly agreed with assigning the task of legislation to the Council and giving it the authority to issue final legislations, while only 16 per cent of the sample objected to giving it such authority and 2.4 per cent did not know.



**Table 8.2    The legislative function should be exclusively assigned to the Majlis, and it should be granted the power to issue final legislations**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	20	16.0	17.4	17.4
	Do not know	3	2.4	2.6	20.0
	Agree	43	34.4	37.4	57.4
	Strongly agree	49	39.2	42.6	100.0
	Total	115	92.0	100.0	
Missing		10	8.0		
Total		125	100.0		

The results in Table 8.2 indicate that most of the respondents believe in the importance of enhancing the legislative functions of the Council and giving it the right to issue final legislations in the country.

This result shows the extent of the conviction of most of the Council members (who represent part of the elite sector of Saudi society) who think that the present and next phases are very critical to the Kingdom. These stages require the modernization, flexibility and courage of the legislature to handle the important issues concerning domestic and external affairs. This may be because the Council members believe that the legislative responsibility is a burden on the shoulders of Ash-Shura Council, since it is the first authority that is responsible for the formulation of regulations in the country. This requires giving the Council a full legislative function that would be suitable to this stage, and would strengthen its independence in handling many issues and matters.

**b. Formation of a legal commission (committee) in the Majlis Ash-Shura**

The researcher attempted to discover whether or not the formation of a legal commission in the Council would lead to an improvement of the legislative



performance and quality of legislations. As shown in Table 8.3 it was found that 93.35 per cent of the Council's members believe in the importance of forming such a commission, whereas 8.1 per cent of the respondents were uncertain about this importance. This difference in the replies of the Council members indicates the extent of the need for such a legal committee to enhance the legislative function of the Council, and to overcome the shortage in the number of Majlis members specializing in the Sharia and law.

**Table 8.3 The Majlis Ash-Shura should be supported by a legal commission in order to enhance its legislative function**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	9	7.2	7.3	8.1
	Do not know	2	1.6	1.6	9.7
	Agree	47	37.6	37.9	47.6
	Strongly agree	65	52.0	52.4	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		

Dr Al-Jarba<sup>1</sup>, an interviewed academic, agrees with what the respondents said concerning the importance of forming a legal consultative committee at a level that suits the function of the Council in the legislative process in the Kingdom, and aims to promote the degree of legislative formulation and overcome the shortage of experience in this field among the Council members. The researcher believes that there is an urgent need to increase the legislative qualification of the Majlis. So, an important change that might significantly enhance the legislative function and capabilities of the Majlis is the

<sup>1</sup> An interview with Dr Mohammed Al-Jarba, Riyadh, 15/6/ 2003.



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creation of a new legal commission or the transfer of the Experts Division from the Council of Ministers to the Majlis Ash-Shura.

### **8.3.2 Improving the oversight function**

In light of the discussion in Chapter six, it is clear that the assembly has not been able to play an effective oversight role. In an attempt to discover ways to improve the Majlis' oversight function, the researcher examined the opinions of the Council members on the following suggested ideas:

#### **a. Developing the mechanism for the selection of Majlis members**

Although the Majlis members are appointed by the King, its actual composition is as described by a Western observer "a quite remarkable thing and there can be few legislative or consultative bodies in the world where 51 per cent of the members hold PhD degrees".<sup>2</sup>

Developing the mechanism for the selection of Council members so as to include elections as a tool for enhancing popular participation in decision-making, hoping to advance the independence of this institution and its oversight function. The researcher attempted to reveal the sample views on this critical issue. Therefore, he asked them to respond to three statements; the first statement aimed to determine whether the Council members agree or not with the idea of enhancing the members selection mechanism. From the answers shown in Table 8.4 it can be seen that the majority (86.4 per cent) support this idea. There seems to be a common desire among the Council members for reform of the selection mechanism.

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<sup>2</sup> Bulloch, John, the Ash-Shura Council in Saudi Arabia, (London: Gulf Centre for Strategic Studies, Oct 1993), p.3.



**Table 8.4 The mechanism for the selection of Majlis members should be enhanced**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	11	8.8	9.0	9.8
	Do not know	2	1.6	1.6	11.5
	Agree	66	52.8	54.1	65.6
	Strongly agree	42	33.6	34.4	100.0
	Total	122	97.6	100.0	
Missing		3	2.4		
	Total	125	100.0		

To find out what kind of reform the Council members see as appropriate, the researcher asked them to respond to the following statement: “The mechanisms for selecting members should be developed to combine both direct appointment and gradual election”. 78.4 per cent of the responses as shown in Table 8.5, agreed or strongly agreed with the statement, while 15.2 per cent disagreed or strongly disagreed.

**Table 8.5 The mechanism for selecting members should be developed to combine both direct appointment and election**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	6	4.8	4.8	4.8
	Disagree	13	10.4	10.5	15.3
	Do not know	7	5.6	5.6	21.0
	Agree	56	44.8	45.2	66.1
	Strongly agree	42	33.6	33.9	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		



In this regard one member suggested in the returned questionnaire that “membership of the Majlis should be through election and appointment: 50% of the members should be through election and 50% of them by appointment”. Another member suggested that “the representation of membership should be based on the regions; the candidate’s educational level should not be less than the university level; he should be honest, non-biased and mature; should be free for the membership, and the membership should not be renewed more than once”.

Furthermore, to make sure of the opinions of the research sample regarding an enhancement of the mechanism of the members through full election, the researcher asked them to assess the following statement: “The mechanism for selecting members should be developed to involve full elections”. 54.4 per cent of the respondents disagreed or strongly disagreed. On the other hand, 26.4 per cent of them preferred this method, while 13.6 per cent of the sample were uncertain, as shown in the Table 8.6.

**Table 8.6 The mechanism for selecting members should be developed to involve full elections**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	19	15.2	16.1	16.1
	Disagree	49	39.2	41.5	57.6
	Do not know	17	13.6	14.4	72.0
	Agree	19	15.2	16.1	88.1
	Strongly agree	14	11.2	11.9	100.0
	Total	118	94.4	100.0	
Missing		7	5.6		
	Total	125	100.0		

In light of these results, one can deduce that the target group preferred, at this stage, an enhancement of the method of members’ selection that combines direct appointment



and election, i.e. a semi-elected representative body. This opinion expresses the demand and the aspiration of a large segment of Saudi people, as this approach gives a more effective form of Ash-Shura, expanding popular participation and increasing the level of independence of members.<sup>3</sup>

#### **b. The Majlis should be vested with new oversight tools**

Concerning the need of the Majlis for new oversight tools, the researcher asked the sample to evaluate this statement: “The Majlis Ash-Shura is in need of new oversight tools that are similar to those of other councils.” Table 8.7 shows that 95.2 per cent of the samples believe that it is necessary to vest the Majlis with new effective oversight tools that are similar to the tools applied in most parliaments and councils. An interviewed member commented that: “The Majlis is the best assistant for the government. There is no gap between the two, as may be the case in other countries. The Majlis is part of the State, and the motivations of the members are purely national. They have no other aims than serving the public interest in Saudi Arabia. So, there is a real need for giving it effective oversight authorities”.<sup>4</sup>

The researcher attempted to reveal the sample views on the following oversight tools:

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<sup>3</sup> Among those who stand for expanding popular participation in Saudi Arabia are King Fahd bin Abdulaziz and the Crown Prince Abdullah. King Fahd was the first high-ranking official to adopt the expression “expanding popular participation” in his annual speech to Majlis Ash-Shura in July 2003. Also the Saudi Foreign Minister had similarly pointed out the same idea in a unique lecture on Al-Janadreyyah Festival on Nov 2003 by saying: “Saudi Arabia has reached a stage in our development that requires expanding political participation”. Many Saudi intellectuals and academics have delivered two petitions to the Kingdom leadership in 2003 that call for political, economic and social reforms such as political participation and election of the Majlis Ash-Shura members.

<sup>4</sup> An interview with the Council member Dr Abdul Aziz Al Thnyan, Riyadh 13/7 /2003.



**Table 8.7 The Majlis Ash-Shura is in need of new oversight tools that are similar to those of other councils**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	1	.8	.8	1.6
	Do not know	4	3.2	3.2	4.8
	Agree	41	32.8	32.8	37.6
	Strongly agree	78	62.4	62.4	100.0
Total		125	100.0	100.0	

**1. Empowering the Council with the authority to review the general budget**

If the Assembly is empowered with the right to debate the general budget, it will have access to an effective and comprehensive monitoring function of the income and expenditure of the state, as well as its financial policies. Similarly, the Majlis may also gain a new and forceful tool with which to push the governmental departments to implement its resolutions and recommendations that are meant to enhance the performance of these departments in the public interest. The researcher has attempted to examine the opinions of the study samples regarding whether granting the Majlis the power to discuss and approve the general budget would enhance its monitoring function or not. Almost the entire sample (98.4 per cent) supported the view, with 78 per cent of respondents strongly agreeing with the statement. This high percentage signifies how interested the members are in adopting this important tool. This outcome corresponds with many Saudi demands for increased popular control of the national economy, and also with some expert suggestions for political reform in Saudi Arabia by expanding the role of Majlis Ash-Shura: “It (the Majlis Ash-Shura) must play a more direct role in



reviewing the Saudi budget and, its debates need to be more open, and reported in the media ....”<sup>5</sup> Table 8.8 shows details regarding the members’ answers:

**Table 8.8    The Majlis Ash-Shura should be granted the power to review and approve the general budget of the state**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Do not know	2	1.6	1.6	1.6
	Agree	26	20.8	20.8	22.4
	Strongly agree	97	77.6	77.6	100.0
Total		125	100.0	100.0	

The Majlis discussion of the Final Statement at the end of the fiscal year is no less important than discussing the general budget. This would keep the Majlis updated regarding the actual actions taken with respect to the budget, the collection of income, and the direction of the expenditures in their legal channels. On the basis of this, the Majlis could hold control of all the financial matters of the state.

The researcher believes that there is a real need for the Majlis Ash-Shura to participate in the reviewing and approving of the general budget of the state, which is currently the exclusive jurisdiction of the Council of Ministers.

**2. Giving the Majlis the right to question ministers**

The Constitutions of some Arab and Islamic countries give the members of their parliaments the right to question government ministers. This monitoring tool is aimed at driving the competent minister to give clarifications about the policy he adopts or the

<sup>5</sup> Cordesman, Anthony H, *Saudi Arabia Enters the Twenty-First Century*,( Washington, D. C: the Centre for Strategic and International Studies,2003),p. 552. (Online) Available : <http://www.csis.org/burke/saudi21>, (accessed on 11/6/2003).



situation he assumes towards a specific issue, or even about the defaults or negligence attributed to his ministry. Normally, the questioning ends either with the impeachment of the minister, criticism of his policy, or giving him a vote of confidence.<sup>6</sup>

The right of questioning indicated above would empower the Majlis with the authority to impeach the concerned defaulting minister, but not the government itself. This is because the Majlis does not have the right to either give or withdraw its confidence in the government.<sup>7</sup>

By examining the sample opinions about whether granting the Majlis the right to question ministers would positively influence the Majlis' oversight function, the researcher has found out, as shown in Table 8.9, that 100 per cent of the members agree with this statement, and 60 per cent of the sample strongly accepts this suggested authority.

**Table 8.9 The Majlis should be granted the authority to question ministers in cases of abuses and breaches in their ministries**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	50	40.0	40.0	40.0
	Strongly agree	75	60.0	60.0	100.0
Total		125	100.0	100.0	

The results, shown in the table above indicate the members' preference towards adopting this important oversight tool. One member, who believes that the Majlis

<sup>6</sup> Al Slosh, Rageed, the Monitoring Role of the Arab Parliaments, (Beirut a study addressed to the Symposium on Arab Parliamentary Development, 16<sup>th</sup>-18<sup>th</sup> May 2000). (Online) Available from <http://www.Pogar.org/publications/legislature> (accessed on 18/2/2002).

<sup>7</sup> Al Menofi, Kamal, The Parliament and the formation of the General Policies of the State, (Association of the General Secretaries of Arab Parliaments, 2000), p. 6.



should have a role in questioning the ministers, said: "It is a very important aspect and reflects the government's seriousness in improving the performance quality. It also renders it important that the Majlis has its position in the sight of the ministers. Thus, the minister is subjected to a dual oversight by both the Majlis and the government".<sup>8</sup>

Another suggested in the returned questionnaire that "the Majlis should be given the right to question the ministers and its resolutions should be final".

An interviewed official agreed with this member's opinion with respect to the fact that empowering the Majlis with the authority to question ministers and discuss the general budget of the country would strengthen the oversight role of the Majlis".<sup>9</sup>

It can be noted that this modern tool conforms to the objectives and authorities of the Majlis in virtue of the Islamic Sharia. Dr Al Khalidi emphasized this fact saying that according to the Islamic Ruling System, the Majlis Ash-Shura is entitled to express its dissatisfaction towards the Caliph's clique representatives in the region (his ministers and other assistants). This is because the Caliph's position is different from their position as he normally takes over after the declaration of the bai'a (oath) is made by the Muslims. His representatives are, however, appointed by an order of the Caliph<sup>10</sup>. Al Khalidi believes that the Majlis' decision regarding the representatives should be binding, and the Caliph should immediately discharge the impeached only. He gives evidence for his view by mentioning the story of Al Ala Bin Al Hadrami, the Prophet's companion who was deputized to rule Bahrain. When the Prophet (Peace Be Upon Him) received a complaint against Bin Al Hadrami from Abs' delegation, he (the Prophet) discharged him immediately from his position.

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<sup>8</sup> An interview with Dr Mohamed Al Helwa, Riyadh, 10 /5 /2003.

<sup>9</sup> An interview with HE Mohamed Al Nafie, Chairman of Control and Investigations Commission, Riyadh, 12/7/2003.

<sup>10</sup> Al Khaledi, Mahmoud , Shura System In Islam, (Amman: Al Risalah Modern Library .1986). p.148.



While acknowledging the importance of this tool in activating the Majlis' oversight role, we believe that—considering the dangers underpinning this question, and in order to avoid misusing this right to punish or defame a minister—some guarantees and procedures should be available to regulate the practice of this tool. For example, the questioning should be practiced only after it is requested by a specific number of members, and the minister in question should be notified in advance and given enough time before the questioning sessions held.<sup>11</sup> Moreover, The researcher believes that voting for or against the impeachment of a minister should conclude the questioning session. Where the voting is against the impeachment of the minister, the issue should then be closed. However, if the members vote for impeachment, the issue would be referred to the King together with the Majlis' recommendations in this regard. In his turn, the King will decide whether to discharge the minister from his position, issue blame against him or take whatever action deemed suitable.

Owing to the sensitivity of this tool, and in order to avoid any negative results affecting the relationship between the Majlis Ash-Shura and the executive authority, the researcher believes that the questioning should be conducted gradually in a way that copes with the privacy of the Ruling System in the Kingdom and the political culture prevailing in the Saudi society.

### **3. Giving the Majlis the right to debate on general issues**

In order to find out the members' opinions with respect to the right of the Majlis to initiate a debate on a general issue before it is referred to it by the government, the following statement is posed in the questionnaire: "The Majlis Ash-Shura should have

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<sup>11</sup> Most Councils and Parliaments that have adopted questioning gave ministers enough time for example: one month before holding the questioning sessions.



the right to debate on general issues that have not been referred to it". Table 8.10 shows that the majority of the sample respondents (97%) supported the idea of vesting this authority in the Majlis. Only (2%) disagreed with this opinion.

**Table 8.10    The Majlis Ash-Shura should have the right to debate on general issues that have not been referred to it**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	2	1.6	1.6	1.6
	Do not know	1	.8	.8	2.4
	Agree	40	32.0	32.0	34.4
	Strongly agree	82	65.6	65.6	100.0
	Total	125	100.0	100.0	

The researcher believes that the time has come to give the Majlis the right to initiate any debate on general issues, especially in the light of a growing openness in the information and communication atmosphere. The level of political awareness of the Saudi citizen has risen dramatically during the past few years. People have become interested in seeing a more effective role assumed by the Majlis when discussing a number of important issues and events going on in Saudi Arabia.



### 8.3.3 Improving the external role

It is clear from the discussion in Chapter six that the Majlis, despite its function and activities, has not been able to play an effective role in Saudi foreign affairs. In the following pages, an attempt is made to examine the opinions of Council members on some suggested ideas for improvements aimed at enhancing the effectiveness of the external role of the Council.

#### a. Participation in the formulation of the general policy of the Kingdom

In order for the Majlis to function effectively, it must be given the power to enable it to play a major role in shaping the country's domestic and foreign affairs policies. The respondents were asked to give their opinion on the following statement: " The Majlis Ash-Shura should take part in the formulation of the general policy of the Kingdom". The answers, as shown in Table 8.11, reveal that 98 per cent of the sample agreed and among them 67 per cent strongly agreed on the importance of the Majlis' participation in drawing up the general policy of the country. These results clearly indicate the Council members' ambition to participate in the actual laying out of domestic and foreign policies, instead of the role currently played which is limited to giving recommendations which are often not obligatory to the executive authority.

**Table 8.11 The Majlis Ash-Shura should take part in the formulation of the general policy of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Do not know	2	1.6	1.6	1.6
	Agree	38	30.4	30.6	32.3
	Strongly agree	84	67.2	67.7	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		



It should be stated that such participation would offer the Majlis access to the formulation of general policies giving the members the opportunity to play a direct role in planning and guiding the Kingdom's foreign affairs so that they become closer to the Saudi people's aspirations. Also, this participation will enlarge the political role of the Assembly in external affairs that will, in the end, provide support for the executive authority.

The Majlis needs to expand its influence and role in the decision-making of Saudi external affairs. The country's foreign policy should be determined jointly by the King, the Cabinet and Ash-Shura Council. This suggested reform was supported by some Council members in the suggested proposals provided on the returned questionnaire. One of them wrote: "The Majlis Ash-Shura must play a major role in the planning and formulation of domestic and external policies, instead of its current role which can be described as merely a marginal role in political life"; another member wrote: "Two of the most significant reforms are giving the Majlis Ash-Shura a leading role in running the Kingdom's domestic and external affairs, and increasing popular participation in decision-making".

#### **b. A new role for Ash-Shura Council in foreign affairs decision-making**

As mentioned in Chapter six, one of the main obstacles to fulfilling an effective role in foreign affairs is the lack of authority vested in the Assembly in the external domain. To discover the opinions of Council members on some suggested forms of authority, the following statement was provided: "The government should consult and get the approval of Majlis Ash-Shura in advance of concluding external (international) agreements".



Table 8.12 shows that 92 per cent of the respondents agreed or strongly agreed that the Majlis should be consulted and its approval should be considered before concluding any international agreement. Only 4.8 per cent of the sample were not in favour of giving the Majlis this authority. This result reveals the strongly held desire of the majority of Council members for their Assembly to take a more active role in the foreign affairs decision- making process.

**Table 8.12    The government should consult and get the approval of the Majlis in advance of concluding external (international) agreements**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	6	4.8	4.8	4.8
	Do not know	4	3.2	3.2	8.0
	Agree	65	52.0	52.0	60.0
	Strongly agree	50	40.0	40.0	100.0
	Total	125	100.0	100.0	

In addition, the researcher attempted to discover the views of the Council members on whether the government should consult and obtain the approval of the Council before concluding any foreign agreement or treaty including the granting of financial loans. Table 8.13 shows that a high percentage of the sample (93 per cent) showed their agreement or strong agreement with this suggested authority, as shown in Table 8.13. Only a small percentage, constituting 1.6 per cent, objected to the suggestion and 4.8 per cent indicated they were uncertain about it. The respondents’ answers indicate the importance of the Council’s participation in the study of such agreements, because its absence greatly affects its foreign role effectiveness and limits its position in foreign policy-making.



**Table 8.13 The Majlis Ash-Shura should be consulted before concluding any foreign agreements, which incur financial loans**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	2	1.6	1.6	1.6
	Do not know	6	4.8	4.8	6.4
	Agree	52	41.6	41.6	48.0
	Strongly agree	65	52.0	52.0	100.0
	Total	125	100.0	100.0	

One of the interviewees<sup>12</sup> stated that “the Majlis Ash-Shura’s role in Saudi external affairs is marginal, while its role is supposed to be major and effective in the foreign policy of the Kingdom, especially when the country is currently facing serious external pressures. The role of the Council should reflect the position of our country as a major political player in the Islamic world and, as an important player in the world energy policy”. He added, “it should discuss any external issues and make appropriate decisions. We have to make other states feel that our institution (the Majlis Ash-Shura) takes a major part in the decisions of the country, side by side with the government. In this respect, the Majlis can help the government in foreign issues decision-making and eliminate the pressures on it”.

One of the Council members wrote in the questionnaire: “ the Majlis Ash-Shura should be vested with the authority that can give it the right to determine Saudi foreign policy, and its external relations and treaties that include loan agreements. The Majlis should be given the right to study and determine the defence and security policies of the country”.

<sup>12</sup> An interview with Dr Salah Al-Rajhe, Assistant Professor of International Relations, Riyadh, 14/6/2003.



In conclusion, it can be said that the Majlis Ash-Shura’s opinion should have a greater impact on Saudi foreign affairs and should play a prominent role in the decision-making process. This would benefit the Saudi government and result in strengthening its negotiating position, as “international negotiations require compromise with the interests of other states”.<sup>13</sup> In general, it could be a valuable instrument that would help the government to take decisions that are closer to people’s demands and ambitions.

**c. Enhancement of the Majlis’ external activities and tools**

In light of the discussion in the previous chapter on the activities and tools used by the Assembly in exercising its external role, it is believed that the Assembly should be vested with new tools and should enhance the tools and activities being currently used. With this in mind, the respondents were asked to give their assessment of the following statement: “The activities and tools used by the Majlis in exercising its external role should be enhanced.” It can be seen from Table 8.14 that most of the respondents (98 per cent) indicated their agreement or strong agreement with this statement.

**Table 8.14    The activities and tools used by the Majlis in exercising its external role should be enhanced**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	1	.8	.8	.8
	Do not know	1	.8	.8	1.6
	Agree	73	58.4	58.9	60.5
	Strongly agree	49	39.2	39.5	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		

<sup>13</sup> Richards, Peter G. Parliament and Foreign Affairs, (London: George Allen & Unwin Ltd, 1966), p.1



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In the returned questionnaires, one member suggested that “in order to improve the performance of the Majlis in its external role, we have to change the nature of the role of the Majlis itself; in other words, its role should be politically major rather than nominal. This can be achieved by expanding the Majlis’ role in the process of decision-making in the foreign affairs of the Kingdom”.

#### **8.4 Conclusion**

This chapter has looked at which forms of improvement are most appropriate for the enhancement of the functions and role of the Council in relation to domestic and international affairs. The researcher examined the opinions of the Council members on some suggested forms of improvement. The study reveals that 73.6 per cent of the members approved of giving the Council a full legislative function and the authority to issue final resolutions.

The study results also show that the members have a desire to activate the oversight function of the Majlis over the performance of the executive power, and have more authorities vested in the Majlis. In this respect, the majority of the sample (86.4 per cent) supports the idea of enhancing the member’s selection mechanism. 78.4 per cent of respondents agreed there is a need to develop the mechanisms for the selection of members to combine both direct appointment and gradual election. On the other hand, 26.4 per cent of them would prefer such a development to involve full elections.

Furthermore, the majority of the sample (95.2%) supported the idea of developing and enhancing the oversight tools of the Majlis and vest it with new effective oversight tools that are similar to those applied by most other parliaments and councils. The empowerment of the Council by giving it new oversight tools such as the ability to



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review the general budget, the authority to question ministers and the right to initiate discussion on general issues is supported by almost the entire sample.

On the basis of the results of the study regarding improvements to the external role of the Majlis, it was clear that the Council members have a desire to enhance the role played by their institution in Saudi external affairs. The answers to the questionnaire revealed that 98 per cent of the sample agreed on the importance of the Majlis' participation in drawing up the country's domestic and foreign affairs policies. The results also revealed the strongly held desire of the majority of Council members for their Assembly to play a more active role in the external affairs decision-making process. 92 per cent of the respondents believe that the government should consult the Majlis and get its approval in advance of concluding any international agreements. Furthermore, most of the respondents (98 per cent) saw a need for enhancing the activities and tools used by the Assembly in exercising its external role.

The study results have shown that there is a great interest among the members of the Council in the enhancement of its legislative and oversight functions as well as its external role. The researcher believes that these positive indications, shown by the members, need the support of the Saudi political system in order to enable the Council to effectively participate in decision-making, perform its legislative and oversight functions and play a role in the external affairs of Saudi Arabia.



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## Chapter Nine: Conclusions and Recommendations

### 9.1 Summary and findings

As in all countries, the political system in the Kingdom of Saudi Arabia has evolved over time and continues to develop today. The re-establishment of the institution of Majlis Ash-Shura in 1992 is considered one of the most important features of political development in the modern history of the Saudi Arabia.

This thesis has presented the Saudi Majlis as a case study of a newly emerging political institution, and explored and examined the role and functions of this body within the Saudi political system. With this in mind, detailed primary research was undertaken into the domestic functions of the Saudi Majlis Ash-Shura and the role it played in the external affairs of the country during its three terms (1993–2003).

To investigate the role and functions of the Majlis, the researcher divided the study into two parts. Part one serves as background to the second part, and looks at the literature review, clarifies the Islamic principle of Ash-Shura, provides a necessary introduction of the current political system in the Kingdom of Saudi Arabia and traces the historical development of Saudi Majlis Ash-Shura. While the second part explores the domestic functions and the international role it has played. It aims to identify the legislative and oversight functions, as well as the external role of the Majlis, and determines the effectiveness of these functions and role through the eyes of the Majlis members and by studying its documents. In addition, it attempts to find ways to promote and enhance the functions and role of the Council at the domestic and international level.

As observed in Chapter One the methodology used in this research was based on the collection of material from the distribution of questionnaires to past and present



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members of the Majlis, interviews with some of those members as well as government officials, staff and academics, and by studying the Majlis' documents. The results of the research have enabled the researcher to take a descriptive and analytical approach to this topic, which has hitherto received scant attention. It should be noted from reviewing previous studies and literature regarding this topic that few academic studies have been conducted to examine the Saudi Ash-Shura experiment.

Chapter Two of this thesis provides an in-depth examination of Ash-Shura as an important Islamic principle. This begins with an historical exploration of the process of Ash-Shura, pointing to examples of how the Prophet Mohammed (Peace Be Upon Him), and his successors the Caliphs, frequently consulted widely on a variety of issues. It is clear from this that it has historically been accepted that Ash-Shura is the correct way to proceed when making important public decisions. However, this consultation process, although comprehensive, was relatively informal in nature. There was no formal structure and no specific institution such as a Majlis or consultative council. This is because Islam does not specify how this principle should be implemented or whether consultation should take place within an elected or selected body. This leaves each Islamic country to implement the principle by employing the method best suited to its political nature. Thus, the method of Ash-Shura will vary according to the time and place in which it is practised.

Although the method of applying Ash-Shura may vary, the question arises as to whether or not as a principle it is a necessary requirement of the Islamic ruler to implement it or not. Chapter Two draws on the texts of the Holy *Qur'an* and the Prophet's *Sunnah* as well as the writings of generations of scholars to clearly show that all Islamic rulers are under a strict obligation to apply the principle of consultation. This conclusion is drawn by virtue of the fact that the *Qur'anic* verse regarding Ash-Shura is situated between



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two other primary pillars of the Islamic religion, the *As-Salat* and the *Zakat*, which are both considered compulsory. In addition, the Prophet specifically stated that where matters arise for which there is no guidance in the *Qur'an* the principle of mutual consultation must be adhered to. Thus, in accordance with the Islamic *Sharia* the rulers of the Kingdom of Saudi Arabia are legally bound to apply the Ash-Shura principle.

The chapter goes on to discuss the scope of Ash-Shura. There is general agreement that this is limited to the scrutiny of laws relating only to issues not referred to in the *Qur'an* or *Sunnah* by employing the mechanisms of *Ijtihad*, and to ensure that any new laws and regulations do not conflict with the Islamic *Sharia*.

The chapter includes a discussion of the important issue of whether or not the ruler is under an obligation to follow the advice or resolutions resulting from Ash-Shura. It is pointed out that there are two views on this point. One group of scholars, past and present, believe that, because of the prominent position in the *Qur'an* of the text referring to Ash-Shura, the outcome of such consultation is intended to be obligatory. However, others are of the view that there is nothing conclusive in the Holy text that requires the ruler to follow the majority opinion resulting from consultation. Rather, he is free to choose from among a variety of opinions, providing he has the people's best interest in mind and abides by the *Shariah*. From the discussion of this matter in the case of the Kingdom of Saudi Arabia, it becomes clear that in theory, therefore, final decisions rest with the ruler (the King). In practice today, however, the resolutions passed by the Saudi Majlis are generally binding on the government, particularly with regard to legislation.

Finally, Chapter Two examines what type of people should be consulted when practising Ash-Shura. Again, there is no guidance in either the *Qur'an* or the *Sunnah*



on this matter. Although there are some who believe that all citizens should be consulted, the continuing tradition in the Kingdom of Saudi Arabia is to consult only with men of learning, and, in particular those who have qualified expertise and are specialized in different fields of knowledge.

Chapter Three provides an insight into the current political system in Saudi Arabia and shows that it has as its basis the principles of Islam and the implementation of the *Sharia*. This is verified by the fact that the Basic Law of government, implemented in 1992, states that the Constitution of the Kingdom is the holy book of Allah (the *Qur'an*). The first part of the chapter deals with the executive authority, which consists of the King, the Council of Ministers and local government.

Although there are three branches of authority in Saudi Arabia, the executive, the legislative and the judiciary, it is the King who has supreme power and is the final point of reference for each of these authorities. It is pointed out, however, that there are limitations placed on the authority of the King by Islam. Among his executive functions he, as Prime Minister and Head of the Council of Ministers, selects his deputies and other ministers, and plays a supervisory role over the Council and other governmental bodies.

The chapter goes on to examine the executive role of the Council of Ministers and local government. It is explained that the Council of Ministers while being primarily an executive body, also has legislative functions and the power to review resolutions passed by the Majlis Ash-Shura. The Council has the responsibility of deciding the financial and administrative policies of the country as well as setting the national budget and overseeing all government departments. It is pointed out, however, that all policies have to be approved by the King, as Head of State, before they can be implemented. As



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regards local government, it is noted that although in 1993 a regional council, consisting of appointees, was established in each region of the country to oversee local services and development, they are limited to playing a supervisory and advisory role only. However, an important move toward greater public participation was made in 2003 when the Council of Ministers proposed to establish semi-elected municipal councils in the regions. These councils will consist of fifty per cent elected members and fifty per cent appointed by the Ministry of Municipality and Rural Affairs and as such will constitute the first bodies to include members elected by popular vote. They will have both financial and administrative authority at a local level rather than playing a merely advisory role and it is to be hoped that this significant step forward will lead the way for greater participation in other state institutions.

The chapter goes on to examine the legislative authority of the King, the Council of Ministers, the Majlis and the *Ulama*, and discusses the relationship between the four. It is pointed out that the Basic Law of government stipulates that the legislative authority must be carried out in accordance with the *Sharia* and in such a way as to benefit the people, and to prevent and remove any harm. There follows a discussion as to why the Basic Law refers to “regulations” rather than “laws”. It is noted that the reason for this is to distinguish between the Islamic *Sharia* “law” (which is supreme) and man-made “regulations” (which are secondary). However, it is pointed out that the current view supported by scholars is that this is merely a matter of semantics. If legislation is introduced to meet new challenges using the mechanisms of *Ijtihad* it is as valid as the *Sharia*. This in turn has led to the view that, as long as they strictly adhere to the principles of Islam, Western style laws can be adopted in certain circumstances.

It is explained that the legislative responsibility in Saudi Arabia is shared between the Council of Ministers, the Majlis and the King who has ultimate authority. It becomes



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clear that, in general, the Majlis as a formal Ash-Shura body played an effective role in the early history of the state as a legislative authority, although its authority diminished with the establishment of the Council of Ministers in 1953. However, the King, who by virtue of the fact that he is both Head of State and Head of the Council of Ministers has supreme authority regarding all legislative matters. In addition, it is noted that it is the King, as head of state, who appoints the Chairman and members of the Majlis and it can be dissolved and re-formed only by him. He also has the authority to issue laws independently by Royal Decree (providing they comply with the *Sharia*); an example of such a law is the Basic Law of government. It is also noted, however, that in spite of the supreme authority of the King, the majority of legislation is in practise passed only after being considered by the Majlis as stipulated by the Law of the Majlis. It is still true to say, however, that the King is the final legislative authority in the Kingdom. Having looked at the relationship between the King and the Majlis, the chapter goes on to examine the legislative function of the Council of Ministers and its relationship with the King and the Majlis. It is first noted that although the Majlis remained in existence after the establishment of the Council of Ministers, it gave up all legislative authority. However, since the implementation of the Basic Law of government, the Law of the Council of Ministers and the Law of the Majlis in 1992, the legislative responsibility has been shared between the two councils and the King. The Council of Ministers is vested with the power to propose new laws and review the resolutions passed by the Majlis. However, no new legislation can be implemented until the King has approved it. The question is raised here as to whether the Council of Ministers enjoys a higher legislative position in the government than the Majlis. It is concluded that the two councils are equal partners as neither can issue legislation without the approval of the other, however if the two councils disagree the King makes the final decision in this regard. Furthermore, the amendments made to the Law of the Majlis in 2003



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strengthened its legislative role by granting it the right to propose new laws and amend existing ones thus giving it a similar status to the Council of Ministers.

Finally, the chapter looks at the legislative role played by the *Ulama*. Although the *Ulama* are not part of the legislative authority as such, they nevertheless play an important role in the formation of certain types of legislation. Examples are given of occasions where the guidance of the *Ulama* has been sought and followed regarding major issues facing the King, the Council of Ministers and the Majlis Ash-Shura, and it is noted that the Majlis frequently refer to the decisions of the *Ulama* before passing resolutions. Their opinions are highly regarded as they are specialists in all aspects of the Islamic religion, and as such are consulted when issues arise for which there is no guidance in the texts of the *Qur'an* or *Sunnah*. On such occasions, the senior *Ulama* reach their conclusions using the mechanism of *Ijtihad* in order to formulate laws that adhere to the principles of Islam. It is clear from this that the *Ulma* make a significant contribution to the law-making process in Saudi Arabia by ensuring the non-contradiction with the Islamic *Sharia* of legislation adopted by the legislative authority.

Chapter Four gives a comprehensive historical account of the development of the Majlis Ash-Shura in Saudi Arabia. It begins by explaining that the principle of Ash-Shura was adopted during the second half of the 18<sup>th</sup> century and the beginning of the 19<sup>th</sup> century as one of the measures taken to establish Saudi Arabia as an Islamic state. Although the rulers consulted regularly with religious scholars and tribal leaders on important state affairs Ash-Shura was, at this time, carried out on a very informal basis. It is pointed out that no official Majlis or consultative body was established, and this is attributed to the fact that the first two Saudi states existed for relatively short periods and that the rulers at that time were concentrating on establishing a unitary state. In addition, Saudi Arabia was isolated from its neighbours and the wider world and failed to benefit from the



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input of new political ideas. During the third Saudi state the Kingdom became less isolationist and began to learn about political developments in neighbouring Islamic countries. As a result, the first elected consultative body, the Majlis Al-Ahli, was founded in 1924. This council consisted of thirteen elected members and was primarily responsible for matters of an executive nature; at this point the Majlis had no legislative role.

The chapter goes on to explain that after several failed attempts, in 1926, King Abdulaziz established what is generally thought of as the first official Ash-Shura Council in Saudi Arabia. This council consisted of 8 members appointed by the government, and had legislative and executive responsibilities as well as playing the important role of overseeing the actions of the government. The Majlis had the right to amend or reject legislation by the government, although in cases where the two bodies failed to reach agreement, the final decision rested with the King. In 1928 a new Majlis was formed, all its members being appointed by the King. The number of members was increased to 25, it met every day and had 7 committees fulfilling both legislative and executive functions. The Majlis continued to play an important legislative role for the ensuing 25 years and was instrumental in bridging the gap between the tradition and modernization of the Kingdom. In 1953, the Council of Ministers was established and many of the responsibilities of the Majlis lay with the new council. Although the Majlis remained in existence during the following 25 years, its legislative role was greatly diminished until, in 1977, it ceased issuing resolutions altogether. Despite the fact that attempts were made during the 1980s to re-instate the Majlis, this did not happen until 1992 when King Fahd issued a Royal Decree implementing the Law of the Majlis to replace the 1928 Law.



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It is noted, however, that the Majlis in its earlier form had many more responsibilities than its modern counterpart. It is suggested that this was because there was no Council of Ministers until 1953, and because the Majlis had a powerful leader in the person of Prince Faisal who encouraged the effective participation of the Council in important state affairs. It is further pointed out that the main differences between the earlier and modern Majlis lie in the fact that the earliest bodies were elected or semi-elected, whereas the present council is wholly appointed by the King. In addition, the new Law of the Council is far more comprehensive than was the earlier one; the Council is now highly regulated and formalised, bringing it in line with other legislative institutions across the world. The new Majlis law has also restored and enhanced the Council's legislative role, members now have the right to propose new laws and amend and interpret existing ones.

A summary is given of the responsibilities of the current Majlis as stipulated by the Law of the Majlis, which include discussing the general plan of the state for economic and social development and studying the annual reports of the government ministries and departments, which include the right to summon ministers. The rest of the chapter is primarily concerned with setting out the form and structure of the Majlis as an institution. Firstly, details are provided of the background, age, level of education, field of specialization and previous experience and occupation of its members. The rights and duties of the members as set out in the Majlis' regulations are further outlined. Procedures are also laid down for the issuing of penalties by the Steering Committee where a member is found to have violated any of the Council's regulations. The chapter goes on to detail the numbers of Council members and the sessions held, and sets out the procedures for voting and issuing resolutions.



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The actual productivity of the Majlis, during the period of study, is examined using the Council's own data. By looking at the Majlis' input (number of issues referred to it by the Prime Minister) and output (number of resolutions passed), it is shown that the Council's productivity increased dramatically during its three terms. Details are also given of the length of time spent on different types of issues and it is shown that it takes the Majlis longer to issue legislative resolutions than those concerning external matters. The form and administrative details of the Steering Committee, specialized committees, General Secretary and the Head Office, as well as the Council's term, are also described. Finally, the nature of the Majlis' relationship with the wider society is considered and it is shown that the current Council has striven to build links with the ordinary citizen. As well as receiving and considering petitions from citizens, it broadcasts its sessions by television and radio and allows the public to attend its open sessions.

Chapter Five is concerned with the Majlis' legislative function at the domestic level. It begins with an examination of the Council's role in proposing new laws and amending existing ones. Article 23 of the Law of the Majlis grants each member the right to propose and amend law. It is pointed out that as this right applies to legislation dealing with any matter, it is consistent with the principle of Ash-Shura on which the Council is based. This is because Ash-Shura as a principle is the provision for consultation to be practised with no limitations or restrictions. It is further pointed out that whereas the Council of Ministers has the right to propose by-laws as well as laws, the Majlis is restricted to only studying by-laws. However, it is considered that this may be appropriate because the Council of Ministers, as the executive authority, has the greater experience in this field.



The chapter goes on to explore to what extent the right to propose new law is exercised. A comparison is made between the numbers of proposals made by Majlis members with those made by the government. To do this the collected data is presented in table form, which shows that during the period of study the great majority of proposed legislations was referred to the Majlis by the government. It is pointed out, however, that although the percentage of laws initiated by the Majlis is low, it compares favourably with most other similar political institutions where it is usual for the executive to be more active than the legislature in this field. It is further noted that this lack of initiative may be attributed to the fact that law proposed by the Majlis has to pass through many stages before it can be adopted and the lengthy process discourages members from making proposals. A solution to this problem would be to amend Article 23 of the Law of the Majlis in order to increase its authority in this area. With this in mind, research was conducted to discover whether the members of the Council were in favour of such an amendment and it was found that nearly all of them were. Subsequently a Royal Decree has amended Article 23 giving the Majlis the right to study proposed law and amend existing laws without referring them to the King. This verifies the conclusion drawn from the research and is seen as a major step forward in strengthening the role of the Majlis as a legislative body. A comprehensive description of the legislative stages that a draft law passes through is given. In spite of the fact the Majlis has the right to interpret laws and its interpretation is binding on all other government institutions, the data shows that the performance of the Majlis in this field is somewhat weak. It is suggested that a reason for this is the lack *Sharia* and law expertise among the Council members.

An analysis is made of the research carried out to determine the Council members' opinions on how effective the Majlis is in carrying out its legislative role. It is shown that the majority of the members feel that the Majlis is effective in this role. This is verified by the statistics which are presented in table form and show the numbers of



proposed and approved laws and the number of amendments that were dealt with by the Majlis during the period of study. Several examples are given to illustrate how the Majlis has had an effect on the laws of the country. The statistics are then broken down to present data regarding specific legislation, which the Majlis has worked on. Furthermore, it is noted that the Majlis has participated on the development of the legal system in Saudi Arabia, which paved the way for economic and administrative reforms and enhanced the chances of Saudi Arabia joining the World Trade Organization.

Chapter Six examines the role the Majlis plays in overseeing the activities of the government. The Law of the Majlis gives the Council the right to discuss the national development plan and receive regular follow-up reports regarding its progress. This enables the Majlis to make some contribution to the overall planning of economic and social developments in the country. In addition, the ministries and government departments submit annual performance reports to the Majlis who then discuss them and vote on some recommendations. A table shows the number of performance reports reviewed by the Majlis during the three terms under study. It is clear that there was a reluctance to submit the reports at first and this is attributed to the fact that the government ministries and departments had concerns regarding the Council, as it was a newly instituted body. However, it is also clear from the figures that confidence in the Majlis has since grown rapidly and ninety six per cent of its oversight work now consists of scrutinizing annual performance reports. It is noted that by exercising this oversight function the Majlis has been able to make important recommendations to the enhancement of the performance of the executive authority. It is also noted that improvements could be made to the methods used for this procedure in order to make the Council more efficient. When reviewing the annual performance reports the Majlis has the right to call ministers and government officials to meetings regarding their ministries or departments, this is an important tool that can be used to promote co-



operation between the Majlis and other executive bodies. Again, the figures show that there has been a steady increase in the use of this tool. The Majlis also has the right to require the ministry or department to provide relevant documentation to assist in the review of its annual performance report. It is noted, however, that little use has been made of this tool, and it is suggested that this may be because of the indirect nature of the mechanism. It is further noted that despite this, the way the Majlis practises its oversight role is similar to other parliaments.

The chapter goes on to examine the ways in which the Majlis has taken measures to expand its oversight role. These include the study of citizens' petitions, where not only do they receive and sometimes act on proposals from the public, but also consider complaints regarding ministries and government departments. The shortcoming here, however, is that the bodies concerned are not bound to respond to the Majlis regarding such complaints. In addition, the Majlis has begun to pay visits, on invitation, to government departments and Provincial Councils in order to view projects being implemented. Although this is not strictly an oversight function, it illustrates the esteem the Majlis is now held in, and serves to strengthen links with the different institutions.

In order to evaluate how effectively the Majlis carries out its oversight function, the Council members were questioned and the findings discussed in this chapter. The results show that the majority of respondents had a negative view of the Majlis' work in this field and the over reliance on the reviewing of annual performance reports as an oversight mechanism was one reason given for its ineffectiveness. This raises the issue of whether or not the Council actually contributes to improvements in the performance of the ministries and government departments. It is noted that there has been no significant influence in this area. The collected data shows that nearly half of the Council members agreed with this deduction, being of the view that ineffective



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contribution was made as a result of the reviewal of annual reports. However, it is noted that recently the government is increasingly taking the Majlis' recommendations into account when making decisions. Once again, this shows that the role of the Majlis is continuously evolving. As observed from the discussion in this chapter, there are different reasons behind this ineffectiveness, one reason is that the Majlis has neither sufficient legal authority nor effective tools to carry out its monitoring role, and its recommendations are not binding on the other governmental institutions. The data collected shows that the Council members' opinions bear out this view; with a large majority believing that the Majlis' oversight tools are ineffective. A further weakness in the Majlis' oversight role is the fact that it is only able to monitor financial affairs indirectly through its reviewal of general legislation; it has no input into decisions regarding major financial issues such as the General Budget. There is clearly a need for the Majlis to be given the authority to become fully involved in the financial affairs of the country. Interestingly, the collected data shows that every member of the Council who responded to the questionnaire agreed with giving it this authority.

Finally, the chapter looks at two other reasons for the ineffectiveness of the Majlis in its oversight role. Firstly, the Majlis can only discuss matters referred to it by the government. This severely restricts the Council's monitoring activity and prevents it from having any input into major issues affecting the country. It is suggested there is a need to enhance the Majlis' authority in this area so that it may contribute to the decision-making process regarding more fundamental issues. Secondly, the Majlis has no authority to directly oversee the executive bodies. Although it can make recommendations, the bodies concerned are under no obligation to abide by them. In addition there is no mechanism for the Majlis to follow-up its recommendations to see if they are being implemented. Another problem resides in the fact that before the Majlis can call a minister or ask for documents, a request has to be submitted to the Prime



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Minister. This means that the Majlis' monitoring role is necessarily indirect in nature. The data collected regarding the members' opinions on this matter shows that the overwhelming majority would welcome measures giving the Council a more direct role in overseeing the executive authority in order to contribute to the improvement of government performance.

Chapter Seven discusses the activities and contribution made by the Majlis Ash-Shura to the decision-making process concerning the external affairs of Saudi Arabia. It became clear that, the Majlis was given some responsibility for international issues, along with the Foreign Ministry, the Council of Ministers and the King. It should be noted, however, that the Majlis has no direct role to play in the external affairs of the country although this is not to say that it has no input at all. It is noted that the Council contributes by issuing opinions and recommendations to the government, and by exercising its oversight function in monitoring the performance of the Foreign Ministry. It is further noted that the Majlis has begun to take part in the practice of informal or parliamentary diplomacy, commonly practised by many other parliaments. This involves attending international conferences, visiting other countries and building relationships with their parliaments, and issuing statements regarding foreign affairs. The Council has strengthened this role by setting up a Foreign Affairs Committee to deal specifically with external affairs, with meeting visiting parliamentary delegations, forging links with its counterparts in other countries and issuing statements which comply with the government's foreign policy. In this way the Majlis' role complements and supports that of the government, and can be said to strengthen the country's external affairs.

The chapter goes on to look in detail at the mechanisms employed by the Majlis when carrying out its role with regards external affairs. The Majlis has the legal jurisdiction to



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study and vote on all international treaties and agreements that have been initiated by the government. Once approved by the Council, a report is submitted to the King who refers it for study to the Council of Ministers. Having been approved by the Council of Ministers, the treaty or agreement is implemented by Royal Decree. It is noted that the Majlis is limited to studying and approving or rejecting international treaties and agreements; it is not entitled to discuss such matters in advance, as is the Council of Ministers. The research provides figures that show that the number of external issues that were referred to the Majlis by the government steadily increased throughout the study period. This is evidence of the growing spirit of co-operation between the two institutions and the increasing importance of the Majlis' role in this field. While undertaking the research, it became apparent that the government is in the practice of informing the Majlis of the country's international relationships and other external matters. This includes the King and Crown Prince delivering annual speeches to the Council. In addition, the Foreign Minister regularly attends council sessions and delivers statements setting out the government's intentions regarding foreign affairs. It is noted that almost all external developments are now set before the Majlis, this indicates the government's commitment to the principle of consultation. The results of the research show that over half of the questionnaire respondents felt satisfied as to how well the Majlis is kept informed, although a significant minority felt otherwise.

As mentioned above, the Majlis is entitled to issue political statements regarding international issues. It is noted that only seven such statements were issued during the period of study. It is further noted that there has been some increase in the number of statements delivered since September 11<sup>th</sup>. Moreover, the Majlis did deliver a statement denouncing the terrorist attacks. Statements have also been issued regarding such important issues as the Palestinian/Israeli conflict and the Iraq war. These statements do not bind the government; they are merely expressions of the Council's view. However,



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it may be the case that they are taken as being representative of the opinions of the citizens and, therefore, taken into account when final decisions are made. Another important role the Majlis has played has been to forge links with their foreign counterparts by forming friendship groups. During the period of study ten such committees were established with the aim of promoting co-operation and understanding between the different nations. This is an important area of expansion because by opening up channels of communication Saudi Arabia will be able to debate and negotiate more effectively at the global level.

It is noted that these external activities of the Majlis are carried out with specific objectives in mind. These are to generally improve the relationships between Saudi Arabia and other countries, to internationally promote the Islamic principle of Ash-Shura, to enhance the international understanding of the Kingdom's position on global issues and to ensure the inclusion of the Majlis in the framework of international institutions. The Council employs several mechanisms for these purposes. As observed in this chapter, the Majlis has made moves to visit foreign parliaments and councils. It is also noted that members of the Majlis have joined delegates of the Saudi government on important international trips. Moreover, it is noted that the extent of assistance given to Council members regarding such travel is further evidence of the government's commitment to include the Majlis in the decision-making process. Another indication of the increasing importance of the Majlis' role in this field is that increasingly, international political leaders and other visiting delegates are not only received by the King, the Crown Prince and the Deputy Prime Minister, but also by the Council. In addition, the Majlis is playing an increasingly important role by participating in parliamentary conventions and conferences. The figures show that the Council has attended thirty meetings of organizations such as the Inter-parliamentary Union and the Union of Asian Parliaments. It is noted that being included in the first of these is



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particularly significant; a requirement of membership being that the body has legislative powers. This achievement has considerably enhanced the status of the Majlis and can be said to be the result of successful co-operation between the Council and the Foreign Ministry. Furthermore, such interaction with other political institutions will provide an opportunity for the Majlis to benefit from others' experience in ways, which will enhance their political role.

The chapter goes on to evaluate the effectiveness of the Majlis in its external role by analysing the data collected from the questionnaires. The figures show that the majority of respondents were of the opinion that the Majlis plays an ineffective role with regards international affairs. This negative evaluation is attributed to the fact that this role is relatively new to the Council. In order to examine the actual activity of the Majlis, fifty Council resolutions regarding international issues were considered. A detailed table presents figures to show that the Majlis rejected none of the proposed international treaties or agreements and recommended minor amendments to only two. This is attributed to the fact that the Council has no jurisdiction to modify the texts of such proposals. It is noted that this is in contrast to other countries where international treaties cannot be concluded without the approval of the legislative body. It is further noted that it was a relatively small majority that approved some of the agreements and many members had reservations regarding either the compliance of the treaties with the *Sharia* or the benefits the agreement would bring to the Saudi citizens. Another limitation placed on the Majlis is that it has no jurisdiction over international agreements regarding financial loans. It is suggested that such matters should be referred to the Council because agreements that place a financial burden on the government have a direct effect on the country and its people. It is noted that there are those who are critical of the Majlis for not taking the initiative in the field of foreign affairs and call for the Council to play a more central role in the formulation of foreign



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policy. The Majlis is also criticized for not taking the opportunity to benefit fully from its relationships with its foreign counterparts. However, it is also noted that there are those that praise the Council for its achievements in promoting Saudi Arabia and the principle of Ash-Shura abroad, and in improving the cultural, economic and political relationships between the Kingdom and other countries. It is also the view of some that the way the Saudi Majlis functions is appropriate for the current political system in that the final decision rests with the King. It is suggested, however, that it is too early in the career of the Majlis to make a fair assessment of its effectiveness in this field.

Nevertheless, as the general perception is that the Majlis is failing to carry out this external role effectively, two reasons for its ineffectiveness are discussed. Firstly, the results of the research show that a large majority of the questionnaire respondents were of the opinion that the fact that the Council of Ministers is vested with the authority to, in particular, ratify treaties and approve loan agreements, severely limits the role of the Majlis. Secondly, as regards the effectiveness of the Majlis in monitoring foreign affairs, the data shows that just over half of the sample believed that the Council lacks the power to perform such an oversight role. Again, this can be attributed to the fact that the Council of Ministers is vested with a disproportionate amount of power. In addition, the fact that the Majlis is not entitled to question ministers can also be said to create a difficulty. A significant minority of the Council members, however, felt that the Majlis' power in this respect is sufficient by virtue of the fact that it can review the annual performance reports of the Foreign Ministry. Nevertheless, it is suggested that this is an insufficient oversight mechanism as such scrutiny takes place only after a decision has been made. It can be said that a result of its apparent ineffectiveness in the international domain is the limited influence the Majlis has over the external affairs of Saudi Arabia. The collected data shows that just over half of the Council members agreed with this view. Once again, the reasons given for this negative evaluation rest with the greater



amount of power vested in the Council of Ministers, the lack of sufficient oversight tools or a procedure for following up its recommendations, and the absence of opportunities for the Majlis to fully participate in the formulation of the country's foreign policy.

Chapter Eight provides an analysis of the data collected as a result of researching the Council member's opinions regarding suggested ways of enhancing the domestic and external roles of the Majlis. It is shown that the overwhelming majority of the members were of the view that there is indeed a need for improvement. This indicates that the expansion of the Majlis' domestic and external authority should occupy an important place in any future political reforms in the Kingdom. As part of the research, a number of proposals were put to the Council members in order to ascertain their opinions. The figures show that a large majority of respondents agreed that the Majlis should possess the exclusive legislative authority and be granted the right to pass final legislation. Importantly, this would give the Council a comprehensive legislative function and strengthen its independence from the other political institutions and create a balance between the powers. Great support was shown for the suggestion of establishing a legal commission within the Majlis in order to enhance its legislative function. It is noted that such a commission would serve to increase the level of legal expertise within the Council. It is clear from the previous discussions that the Majlis lacks adequate oversight mechanisms. With this in mind, a suggestion is made regarding the composition of the Council. It is pointed out that although the Majlis is currently wholly appointed, its members are of an extremely high calibre. The introduction of elections for the selection of Council members would serve to increase popular participation and enhance the Majlis' independence. The results of the research show that a large majority agreed with the idea of enhancing the selection method and, moreover, that it should be developed to include both appointment and elections. However, just over half of the



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respondents disagreed with the suggestion of introducing full elections, although a significant minority agreed with this idea. It is concluded that currently, Saudi Arabia would be most comfortable with a semi-elected Majlis.

The chapter goes on to analyse the Council members' responses to some other suggested improvements. The figures show that there was overwhelming support for the suggestion that there is a need to introduce new oversight tools in order to make the Majlis more effective. As regards the issue of monitoring financial matters, nearly one hundred per cent of the respondents agreed with the view that the Majlis should be vested with the authority to review the general budget. It is further suggested that the Majlis should also be given the authority to consider the final statement so that they can fulfil a comprehensive function as regards the country's finances. Another important reform would be to give the Council the power to question ministers; this would result in raising the status of the Majlis in the eyes of the other institutions and officials and strengthen its oversight role. The figures show that all the respondents thought this to be a good idea. It is noted that this measure adheres fully with the Sharia. However, it is suggested that to ensure that this power is not abused it would have to be carefully regulated. It is further suggested that as this is currently a politically sensitive issue in Saudi Arabia, it would need to be introduced gradually. The members also overwhelmingly agreed with the suggestion that the Majlis should not be limited to debating only issues referred to them by the government. It is noted that this is in keeping with the growing openness and political awareness of Saudi society. As was discussed in Chapter Six improvements could be made to the external role of the Majlis. Nearly all of the questionnaire respondents felt that the Majlis should have the right to participate in the formulation of the country's general policy. In this way the Council would be able to influence foreign policy directly. A similar majority agreed that international agreements should be referred to the Majlis for approval before being



concluded. In addition, the predominant opinion of the sample was that such a measure should also apply to financial loan agreements. This measure would have the effect of changing the Majlis role from being marginal to being one of major effectiveness. It is also clear from the discussion in this chapter that there is a need to enhance the authorities and activities of the Majlis and this view was agreed on by virtually all the respondents. In conclusion, in order for the Council to have any real impact on the Saudi foreign affairs, it needs to be able to play a far more political role than is currently exercised.

In summary the main findings of the study shows how the Saudi Majlis Ash-Shura has been influenced to a great extent by its Islamic roots and how it is based on the principle of consultation, which has been practised throughout the history of the country. This important fact should be taken into account when any study is undertaken or measure adopted regarding this topic.

Although the study shows that the Majlis and its Law reflects to a great extent the Islamic principle of Ash-Shura, its structure and the way it conducts its business at the domestic and international levels is similar to other modern legislative councils and parliamentary houses.

Through an analysis of the domestic functions of the Majlis and its external role this study leads to the finding that the Majlis, as a newly established political body, has played a significant role in legitimizing the participation of citizens in decision-making, and rationalizing the process of formulating and implementing public policies.

The study indicates that although the Majlis members are not appointed by election, they include a wide spectrum of highly qualified and efficient educational, scientific,



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cultural and religious scholars. Nevertheless, the study results show that the Majlis members' preference, at this stage, is for an enhancement of the method of selection to combine direct appointment and election, i.e. establishing a semi-elected representative body. It is believed this would enhance popular participation in decision-making, and advance the independence of this institution in performing its duties and responsibilities.

The investigation of the role of the Majlis at domestic and international levels indicates that the role it plays is in a continuous state of development from one term to another and in the third term it began to exercise its role effectively, especially in the legislative field. This development policy of promoting the role of the Majlis reflects the methodology, which is gradual in nature that the Saudi government generally prefers when implementing development plans or making changes in the Saudi society. Although this policy has been slow, it is continual and avoids dramatic changes that might create an imbalance between the state authorities and lead to instability in the country.

The study reveals that during the last ten years, the Council has gradually become involved in the decision-making process regarding the domestic and external affairs of the Kingdom of Saudi Arabia as shown in Table 9.1, which makes it one of the primary institutions of the Saudi political system. Furthermore, as the table also shows, the study indicates that the Majlis has contributed more to the decision-making process in relation to the domestic affairs of the Kingdom than its external affairs.



**Table 9.1 The Majlis' resolutions in domestic and external affairs**

<b>Term/year</b>	<b>Resolutions in Domestic affairs</b>	<b>Percentage</b>	<b>Resolutions in External affairs</b>	<b>Percentage</b>	<b>Total</b>
<b>1/1</b>	9	50.00%	9	50.00%	18
<b>1/2</b>	23	57.50%	17	42.50%	40
<b>1/3</b>	16	66.67%	8	33.33%	24
<b>1/4</b>	31	56.36%	24	43.64%	55
<b>1<sup>st</sup> Term total</b>	79	57.66%	58	42.34%	137
<b>2/1</b>	43	76.79%	13	23.21%	56
<b>2/2</b>	38	86.36%	6	13.64%	44
<b>2/3</b>	68	80.95%	16	19.05%	84
<b>2/4</b>	72	68.57%	33	31.43%	105
<b>2<sup>nd</sup> Term total</b>	221	76.47%	68	23.53%	289
<b>3/1</b>	48	75.00%	16	25.00%	64
<b>3/2</b>	77	80.21%	19	19.79%	96
<b>3<sup>rd</sup> Term total</b>	125	78.13%	35	21.88%	160
<b>Total</b>	425	72.53%	161	27.47%	586

**\*The domestic and external resolutions were calculated in relation to the total of resolutions**

**Researcher s' calculation; source: the Majlis Data Archive**

The study also reveals that, despite the fact that Ash-Shura Council resolutions are not final, practical experience indicates that these resolutions have increasingly gained the approval of the King, and the majority of the Majlis' resolutions have been adopted by the government. This was ascertained as a result of studying the King's approval of the Council of Ministers' resolutions based on the output of Majlis' resolutions.



**Table 9.2 Percentage of the Council of Ministers' resolutions based on the output of Majlis' resolutions**

Term/year	Majlis's Resolutions	Council's Resolutions	percentage	Total
1/1	20	9	45.00%	29
2/1	45	25	55.56%	70
3/1	23	16	69.57%	39
4/1	48	43	89.58%	91
<sup>1st</sup> Term Total	136	93	68.38%	229
1/2	32	25	78.13%	57
2/2	17	16	94.12%	33
3/2	40	27	67.50%	67
4/2	72	33	45.83%	105
<sup>2 nd</sup> Term	161	101	62.73%	262
1/3	31	27	87.10%	58
2/3	41	39	95.12%	80
Term total	72	66	91.67%	138
Total	369	260	70.46%	629

**\*Percentage was calculated in relation to the total**

The study also reveals that on the whole the Council members gave a realistic evaluation of their Council in terms of its effectiveness; this is because the members expressed their opinions clearly and with great transparency, and because they have greater knowledge of the actual work of the Council than others. The great majority of the members (80 per cent) believe that the Majlis is playing an effective legislative role. While about 70 per cent of the study sample are of the opinion that the Majlis has no effective oversight function and plays an ineffective external role.

In the light of the analysis of the Majlis' legislative function, it is clear that the Council plays an effective legislative role. The most important outcomes of the research indicated that the majority of the Council members (80per cent) expressed a positive evaluation of their satisfaction with the legislative performance of the Council. These results are found to be consistent with those of the Inter-Parliamentary Union (IPU) Executive Committee's report on its examination of the legislative powers of Majlis Ash-Shura for the purpose of the affiliation of the Majlis to this Union. The following



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facts were concluded after the Executive Committee members had visited the Saudi Majlis Ash-Shura and attended discussions in both plenary and committee sessions:

The Majlis does not deliver opinions but takes decisions by amending bills that are submitted to it by the government or by, at least, ten of its members. The text adopted by the Majlis is binding on the government, unless the King decides otherwise. This system does not widely differ from the right to vote existing in some of the older parliamentary democracies.

The royal arbitration has almost always come down in favour of the Majlis Ash-Shura since its reform in 1992. It can be said that the legislative powers of Majlis Ash-Shura are quite real and considerably superior to those of a purely consultative body.<sup>1</sup>

In spite of these results, the researcher believes that there remain some influential factors that limit the full legislative effectiveness of the Majlis as the study results showed in chapter 5. The most important factors are the sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura, assigning the duty of studying by-laws to the Majlis Ash-Shura and the shortage of members specializing in the areas of the Sharia. There is therefore a need to strengthen the legislative authorities of the Majlis and give its legislative resolutions priority over those of the Council of Ministers, especially as the Kingdom of Saudi Arabia is currently facing both domestic and foreign challenges. These challenges require the creation of new legislation and the amendment of current laws, especially those that are ineffective in meeting the needs of the current stage of development in order to address the issues facing Saudi society, such as unemployment, poverty, terrorism and public

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<sup>1</sup> The archive of the Parliamentary Relations Department, Majlis Ash-Shura, 2003.



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loans. This will have the positive effect of speeding up economic progress and increasing political and security stability all of which will enhance the investment environment of the Kingdom. The Majlis should occupy its natural position as a main legislative authority, in a way that ensures the maintenance of the country's stability and the balance between the authorities without the dominance of one over the other, especially as the Majlis has proven, during its three terms, to be of very high competence and effectiveness in practising its legislative role and has acquired sufficient experience in this area.

The executive authority, represented by the Council of Ministers, should not be over sensitive regarding the strengthening of the legislative authority of the Majlis Ash-Shura, as it would mean that the Majlis would be in a position to provide support to the Council of Ministers because the two Councils share the mutual goal of seeking the achievement of the interests of the country and its citizens.

In the light of the analysis of the oversight function, it is clear that the Council plays an ineffective oversight role in monitoring the performance of the executive authorities. The researcher believes it is necessary to reinforce its oversight authority in order for it to handle its oversight tasks effectively. He further believes that the job assigned to the Council of Ministers, with respect to approving the general budget and the final statement, weakens the oversight role of Majlis Ash-Shura, and argues that there is competition between the Councils; each council tries to expand the scope of its oversight authority over the other, making it difficult to decide which one is in a position to monitor the other. This issue needs a reconsideration of the jurisdiction of the Council of Ministers allowing the Majlis Ash-Shura to monitor the performance of the executive authority and question the defaulters who are appointed by the King to serve the citizens.



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It should be mentioned here that the researcher observed a recent expansion in the oversight role of the Majlis. In June 2004, for example, the Majlis extended the duties of its committees to meet the citizens' demands. The scope of the Islamic Affairs Committee was extended to include human rights and the responsibilities of the Regulation (Law) and Administration Committees were extended to include the study of citizens' petitions; the name of these two committees were therefore modified to represent their new specializations. In addition, in the summer of 2004, the Council started, for the first time, to publicly broadcast its weekly debates on different issues through the local Saudi television and radio station with the aim of promoting political awareness and transparency in Saudi society. Moreover, the Majlis has opened its doors to the press and citizens to attend its open sessions and listen to the deliberations of the members. The Majlis has also started to participate in discussions of the problems common in Saudi society, which indicates the overwhelming sense of responsibility felt by its members. For example it has founded a committee, which is formed of a number of members who are specialists in security, the Islamic *Sharia* and the political and social fields for the purpose of studying terrorism in Saudi Arabia. The Majlis adopted a new technique for studying this phenomenon; it conducted field studies in different Saudi cities to survey the reasons behind the emergence of this danger, which Saudi society has recently had to encounter. Moreover, the Majlis has for the first time discussed proposals for a law for the protection of public funds and for the control of the utilization of power, which indicates the increasing oversight role being played by the Majlis.

An examination of the external role of the Majlis points up the fact that this Assembly has participated with the government in several Saudi foreign affairs, strengthened bilateral relations between the Kingdom and other countries through its relations with



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councils, parliaments and Arab, Islamic and Asian Parliamentary Unions and ensured the Kingdom's presence in the international arena. It is clear that its participation and activities in external affairs are increasing continuously from one term to another. However this has not enabled it to play an effective role in the external domain, and its input into the country's foreign affairs has remained limited. Based on these results, the researcher believes that it is important to enhance the external role of Majlis Ash-Shura and give it the authority and tools it needs to play a positive part in Saudi foreign affairs in the near future. This might be the appropriate time to expand the authority of the Majlis and to give its resolutions in the area of foreign issues equal importance with those of the Council of Ministers, especially as the Kingdom is facing many foreign challenges that impact on its security and stability.

In general, the study results show that among the obstacles encountered, which explain the ineffectiveness of the Council, are the lack of authoritative powers assigned to it and the disproportionate amount of authority vested in the Council of Ministers. These are the main obstacles the Majlis encounters which prevent it from playing an effective role in the Kingdom's domestic and foreign affairs. The researcher believes in the necessity of creating a balance between the authority of the Majlis Ash-Shura and that of the Council of Ministers, where the legislation is primarily the task of the Majlis and the Council of Ministers plays a lesser role in this field.

In addition, in order to strengthen the role of the Majlis in domestic and international affairs, benefits can be derived from Western parliamentary experiences, providing they do not contradict the Islamic principle of Ash-Shura or the Saudi political experience.

It is clear from the questionnaire results that the majority of Council members have a desire to enhance the role of their institution. This is a desire, to which the government



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needs to pay attention, as it comes from representatives of the elite sector of Saudi society, and because the country needs the Majlis' input in domestic and international affairs more than before to overcome the challenges (political, economic, security) which currently face Saudi Arabia and effect the lives of ordinary Saudi citizens. These challenges can no longer be met by the government working alone, it needs the Majlis and its members to share the responsibility. The Majlis should therefore take a leading role in formulating public policies and should have the authority and ability to influence the government in the implementation of these policies. It should be given its independence to handle many important issues and matters, while preserving the interests of the nation.

In conclusion, the Saudi Majlis Ash-Shura as a political institution plays a role in influencing the government in the field of legislation. However, the Majlis has proved to play an ineffective oversight role as regards the government and foreign affairs.

## **9.2 Recommendations**

In the light of the findings of this study, the following recommendations are made for improving and enhancing the role played by the Majlis Ash-Shura in Saudi domestic and international affairs. These recommendations will be grouped into three main categories: recommendations related to its relationship with the Council of Ministers, recommendations related to its domestic function, and recommendations related to its international role.

### **9.2.1 Recommendations related to the Majlis' relationship with the Council of Ministers**

**a. Constitutional reform** to create a balance between the authority of the Majlis Ash-Shura and that of the Council of Ministers in way that avoids the dominance of one over the other. The Majlis would then occupy its natural position as a main legislative



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authority, possess the required authority to monitor the performance of the executive authority and be able to participate in the formulation of the Kingdom's domestic and foreign policies.

**b. Enhancing** the role of the Minister for the Affairs of Majlis Ash-Shura in order to provide a link between the government and the Majlis in reaching joint decisions on domestic affairs and establishing positions concerning matters and issues regarding foreign affairs.

**c. Establishing** a set of principles to regulate the mechanism of handling laws and issues between the Council of Ministers and the Majlis Ash-Shura.

### **9.2.2 Recommendations related to domestic functions**

**a. Transforming** the Majlis into a semi-elected body.

**b. Strengthening** the legislative authorities of the Majlis Ash-Shura making it the main legislative body in Saudi Arabia, and vesting it with such authorities as:

1. The authority to amend the Basic Law of government, its own law and the other primary laws, provided that such amendments are performed according to special conditions. For example, proposed amendments should have the agreement of two thirds of Majlis members and the King's approval remains final and cannot be overridden by the Majlis.

2. The authority to issue, in their final form, ordinary laws concerning the affairs of individuals and public services such as education, health and social services, without ignoring the right of the King to finally approve such legislation.

3. The authority to grant approval of any future amendments made by the government on primary laws or any new proposed political, economic or social reforms in Saudi Arabia.



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**4. Developing** the methodology of the Council for initiating laws, giving this initiative priority in the agenda of the Council, and developing stages for the study of draft laws forwarded from the government in a way so as to ensure the quick achievement and rationalization of resolutions.

**5. Finding** a methodology for the classification of urgent and non-urgent laws and issues referred from the government to the Majlis Ash-Shura. In the light of this classification, urgent laws or issues would be handled in accordance with quick procedures to avoid any delay to the government's task and public interest.

**6. Establishing** a new legal commission (committee) in Majlis Ash -Shura for the promotion of its legislative performance and the quality of legislation. Alternatively, the transferral of the Experts Division from the Council of Ministers to the Majlis Ash-Shura.

**7. Establishing** inside the Council a unit for an archive of old and new laws issued in the Kingdom of Saudi Arabia to strengthen its legislative role and make it the main place of reference for laws in the Kingdom.

**c. Enhancing** the position of the Majlis Ash-Shura as a monitoring body through granting it modern and effective monitoring authorities and tools, which do not contradict the Islamic principles or Ash-Shura philosophy. With this in mind, it is suggested that the following oversight authorities and tools be implemented:

**1. Empowering** the Majlis with the authority to review the general budget and the final statement of the state.

**2. Giving** the Majlis the right to debate on general issues.

**3. Giving** the Majlis the right to question ministers and other officials.

**4. Putting into** action all the resolutions reached by the Majlis with respect to developing the executive bodies in the Kingdom, through laying down an



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obligating mechanism forcing the governmental ministries and departments to abide by the Majlis' resolutions.

**5. Transferring** the General Auditing Bureau from its present location within the Prime Minister's office to the Majlis Ash-Shura. This body could play a major role along with the Majlis. It would enhance the oversight capability of the Council by providing it with an important tool for conducting financial investigations to identify abuses and violations. Many countries have now adopted this kind of control.

**6. Developing** the current oversight mechanism for collecting data and information from governmental departments to allow the Majlis direct access to whatever facts are required for the purpose of facilitating its monitoring function.

**7. Giving** the Majlis the right to take part in field visits as an official tool for monitoring governmental ministries and departments.

**8. Developing** techniques and designed formats to reduce the time spent by the Majlis members on long discussions when studying the annual performance reports of government ministries. The reports should be circulated among the members in advance by the concerned committee so that they can record their valuable notes and suggestions about these reports and present them to the Majlis for discussion, this would lead to sufficient time being left for the discussion of other important issues.

**9. Improving** the members' oversight capabilities in order that they be sufficiently qualified to practice this role effectively—considering the lack of professionalism of some members in this field. This could be handled through holding special training seminars.



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### 9.2.3 Recommendations related to the international role of the Majlis

**Enhancing** the role of Majlis Ash-Shura to make it an effective body in the Kingdom's foreign affairs through the following:

1. **Giving** the Majlis new authorities to strengthen its role in the decision-making process regarding Saudi external affairs, and in the drafting of Saudi foreign policy.
2. **Enhancing** co-operation and co-ordination in foreign affairs between the government and the Majlis and establishing a methodology that includes joint sessions.
3. **Vesting** the Majlis with new tools that would enable it to play a positive role in guiding and overseeing Saudi external affairs. For example, giving it the right to question ministers and officials regarding Saudi external affairs and the right to debate on foreign issues.
4. **Giving** it the authority to discuss in advance and approve major treaties, especially those involving loan agreements.
5. **Activating** the Foreign Affairs Committee's role in the Council, and giving it the right to issue political statements on foreign political issues, in a way that is consistent with the Kingdom's foreign affairs policies, and enhancing the committee with experts and researchers that help the members in this field.
6. **Giving** the Majlis Ash-Shura, and its Foreign Affairs Committee, the opportunity to participate effectively in international parliamentary activities, and to establish relationships with foreign diplomats in Saudi Arabia.
7. **Enhancing** the role of the friendship committees with other Councils and parliaments in a way that strengthens political and economic relations between the Kingdom of Saudi Arabia and other countries.



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#### 9.2.4 General Recommendations

**a. Enhancing the relationship** between the Majlis members and the citizens of all regions of the Kingdom through different channels such as: devoting special hearing and discussion sessions in which the citizens are allowed to attend and meet with the members to convey their opinions and complaints.

**b. Establishing** a women's consultative commission (committee) in Majlis Ash-Shura (the entire membership should be women) to provide consultation to the Majlis regarding women's and family affairs.

**c. Enhancing** the relationship and co-operation between the Majlis and the Regional Councils.

**d. Activating** the specialized committees' functions in the Council, enhancing them with specialized researchers and encouraging co-operation with the specialized sections and the centres of Saudi universities.

**e. Specifying** that the term of office of specialized committees in the Majlis Ash-Shura should be two years instead of forming these committees at the beginning of each year of the Majlis session's periods. This will ensure the continuation of the work performed by the members of the committee in the previous year. In addition, this will make the Council less preoccupied at the beginning of each year with the selection of the specialized committees.

These suggested recommendations are presented with the hope of providing a timely and useful input to the reform efforts in the Kingdom of Saudi Arabia. It is hoped these suggestions will provide a database of information that may be useful in forming a development agenda for the Majlis and its members in order to enhance its role in Saudi domestic and international affairs.



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The time has come to strengthen the role of the Majlis, and carry out essential constitutional, political and economic reforms in Saudi Arabia in accordance with the Islamic *Sharia*. Reconsideration of the responsibilities of both the legislative and executive powers is necessary in order to create a balance between the authorities of the Majlis Ash-Shura and the Council of Ministers, in a way that avoids the dominance of one over the other, while at the same time, stressing the existence of a co-operative relationship between the two powers.

Saudi Arabia's political system must evolve if it is to preserve its internal stability. The Kingdom should continue to expand the role of the Majlis and find ways of allowing peaceful debate of social and economic issues.

Saudi Arabia must find the "golden mean" between preserving its conservative Islamic character and meeting the need for change.<sup>2</sup>

The political and economic reforms in the Kingdom of Saudi Arabia must come from the inside, not as a response to Western pressures.<sup>3</sup> As Cordesman states:

The West needs to understand that the Gulf royal family can only make such changes as fast as their societies accept them. In Saudi Arabia, for example, there is already a major fundamentalist reaction to the existing rate of change. Over accelerating the pace of change would lead to conservative reaction rather than actual progress.<sup>4</sup>

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<sup>2</sup> Cordesman, Anthony H, *Saudi Arabia Enters the Twenty-First Century*, op. cit.

<sup>3</sup> President George W. Bush in his State of the Union speech called for the expansion of democracy in the Islamic world, and urged Saudi Arabia to embrace democratic reforms. Bush said "The government of Saudi Arabia can demonstrate its leadership in the region by expanding the role of its people in determining their future". Source: *Reuters*, 2 Feb 2005.

<sup>4</sup> Cordesman, Anthony H, *Saudi Arabia Enters the Twenty-First Century*, op. cit.



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The Saudi government called on August 2003 for political, administrative, and economic reforms, and has made several steps along the right path. It established the “National Dialogue”, which consisted of five sessions in different regions in the Kingdom and included the full spectrum of Saudi society. This national dialogue is designed to reach unified opinions with respect to the modern forms of reforms on the political, economic, social and administrative levels, in addition to enhancing political participation in a way that corresponds to the Islamic basis of the Kingdom’s traditions and customs. In addition, the Kingdom has witnessed several reform steps recently which include the announcement of the expansion of citizens’ participation in the administration of domestic affairs through approving the principle of electing fifty per cent of the members of the municipal councils, widening the range of freedom of expression by allowing the Saudi press to criticize the performance of ministers and governmental officials, founding in March 2004 the National Human Rights Organization headed by one of the Majlis Ash-Shura members. These aspects of development indicate the intention of the Saudi leadership to continue on the path of pre-studied and planned reformation.

In the light of the prospected reforms, the researcher hopes for more effective political, legislative and oversight functions to be practiced by the Majlis. It is the Saudi people’s hope that the Majlis will become the supreme legislative and monitoring authority in the country. It is believed that giving greater authority to the Majlis is an important challenge that deserves a great deal of attention and should be given priority in any political and administrative reform efforts in Saudi Arabia. Perhaps King Fahd’s declaration of the government’s planned political reforms, during his inauguration of the Majlis’ annual session of the year 2003, is an indication of the important role that the Majlis will play in the Kingdom’s domestic and international affairs in the next stage.



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### **9.3 Further research**

The Saudi Majlis Ash-Shura is a relatively new political institution and is therefore a rich topic for research. It is hoped that this study has laid down a knowledge base and raised some interesting issues that may be treated as the basis for future research.

Additional research is required to address different aspects of the Majlis and its role in relation to domestic and international affairs. More research is needed to explore the history, authority, role and achievements of the Saudi Majlis Ash-Shura since its establishment in the last century so as to provide a comparative study between the previous and current Majlis.

In addition, more research is needed to assess the characteristics of the modern Majlis, its structure and its influence on the decision-making process and the Kingdom's domestic and foreign policy. Furthermore, there is a need for a study to be conducted on the role the Majlis plays in the political life in Saudi Arabia.



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## **APPENDICES**

**Appendix One: The Questionnaire and Responses**

**Appendix Two: Municipal Council Elections By-law**



## **Appendix One: The Questionnaire and Responses**



## Questionnaire

### Part One: Personal Data

**Table: Distribution of Council members by age**

Ser.	Age	Frequency	Percent
1	Less than 40 years	4	03.20%
2	40-49 years.	29	23.20%
3	50 -59 years	50	40.00%
4	60 years or more	42	33.60%
Total		125	100.00%

**Table: Distribution of Council members by level of education**

Ser.	Level of Educational	Frequency	Percent
1	Secondary school or less	1	00.80%
2	Bachelor Degree	15	12.00%
3	Postgraduate Certificate (Diploma or Master)	26	20.80%
4	PhD	83	66.40%
Total		125	100.00%

**Table: Distribution of Council members by duration of previous experience**

Ser.	Duration of Previous Experience	Frequency	Percent
1	10 years or less.	2	01.60%
2	10-20 years	22	17.60%
3	more than 20 years	101	80.80%
Total		125	100.00%



**Table:                    Distribution of Council members by duration of previous occupation**

<b>Ser.</b>	<b>Pervious Field of Work</b>	<b>Frequency</b>	<b>Percent</b>
<b>1</b>	Academic or educational	54	43.20%
<b>2</b>	governmental	48	38.40%
<b>3</b>	Private Sector	13	10.40%
<b>4</b>	Private Business	8	06.40%
<b>5</b>	Others	2	01.60%
Total		125	100.00%

**Table:                    Distribution of Council members by field of specialization**

<b>Ser.</b>	<b>Field of Specialization</b>	<b>Frequency</b>	<b>Percent</b>
<b>1</b>	Administrative sciences	47	37.60%
<b>2</b>	Engineering sciences	19	15.20%
<b>3</b>	Medical sciences	9	07.20%
<b>4</b>	Humanities	31	24.80%
<b>5</b>	Scientific specialties	4	03.20%
<b>6</b>	Religious & Islamic sciences	9	07.20%
<b>7</b>	Military sciences	3	02.40%
<b>8</b>	Other fields	3	02.40%
Total		125	100.00%



**Part Two: The legislative Function**

**Table: Article 23 needs to be amended in order to give the Majlis the authority to study and issue its suggestions directly**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	4	3.2	3.3	4.1
	Do not know	1	.8	.8	5.0
	Agree	31	24.8	25.6	30.6
	Strongly agree	84	67.2	69.4	100.0
	Total	121	96.8	100.0	
Missing		4	3.2		
Total		125	100.0		

**Table: The legislative stages adopted by the Majlis are suitable**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	38	30.4	31.1	32.0
	Do not know	9	7.2	7.4	39.3
	Agree	71	56.8	58.2	97.5
	Strongly agree	3	2.4	2.5	100.0
	Total	122	97.6	100.0	
Missing		3	2.4		
Total		125	100.0		

**Table: The legislative function of the Majlis Ash-Shura is effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	4	3.2	3.4	3.4
	Disagree	11	8.8	9.2	12.6
	Do not know	4	3.2	3.4	16.0
	Agree	79	63.2	66.4	82.4
	Strongly agree	21	16.8	17.6	100.0
	Total	119	95.2	100.0	
Missing		6	4.8	3.4	
Total		125	125	100.0	9.2



**Table: The sharing of the legislative authority between the Council of Ministers and the Majlis Ash-Shura reduces effectiveness of the latter**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly disagree	1	.8	.8	.8
Disagree	26	20.8	20.8	21.6
Do not know	11	8.8	8.8	30.4
Agree	57	45.6	45.6	76.0
Strongly agree	30	24.0	24.0	100.0
Total	125	100.0	100.0	

**Table: The issuance of some laws by the Council of Minister without referring them to the Majlis limits the legislative function of the latter**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Disagree	7	5.6	5.7	5.7
Do not know	6	4.8	4.9	10.7
Agree	72	57.6	59.0	69.7
Strongly agree	37	29.6	30.3	100.0
Total	122	97.6	100.0	
Missing	3	2.4		
Total	125	100.0		

**Table: The Majlis needs to increase the number of members specializing in the Islamic *Sharia* and law in order to promote its legislative effectiveness and qualification**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly disagree	6	4.8	4.8	4.8
Disagree	39	31.2	31.5	36.3
Do not know	10	8.0	8.1	44.4
Agree	48	38.4	38.7	83.1
Strongly agree	21	16.8	16.9	100.0
Total	124	99.2	100.0	
Missing	1	.8		
Total	125	100.0		



**Part Three: Oversight Function:**

**Table : The oversight function of Majlis Ash-Shura is effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	24	19.2	19.5	19.5
	Disagree	64	51.2	52.0	71.5
	Do not know	11	8.8	8.9	80.5
	Agree	23	18.4	18.7	99.2
	Strongly agree	1	.8	0.8	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
Total		125	100.0		

**Table : The oversight role of the Majlis contributed to the improvement of the performance of the governmental ministries and departments**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	11	8.8	8.8	8.8
	Disagree	51	40.8	40.8	49.6
	Do not know	29	23.2	23.2	72.8
	Agree	33	26.4	26.4	99.2
	Strongly agree	1	.8	.8	100.0
Total		125	100	100	



**Table : The oversight tools adopted by the Majlis are effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	14	11.2	11.3	11.3
	Disagree	77	61.6	62.1	73.4
	Do not know	6	4.8	4.8	78.2
	Agree	27	21.6	21.8	100.00
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		

**Table : The Majlis Ash-Shura is in need of enhancing its financial oversight power**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	53	42.4	42.4	42.4
	Strongly agree	72	57.6	57.6	100.0
Total		125	100.0	100.0	

**Table : The Majlis Ash-Shura needs to practice its oversight role directly, and not through the Council of Ministers**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	11	8.8	8.8	8.8
	Do not know	6	4.8	4.8	13.6
	Agree	49	39.2	39.2	52.8
	Strongly agree	59	47.2	47.2	100.0
Total		125	100.0	100.0	



**Part Four: The External Role**

**Table: The government is willing to keep the Majlis Ash-Shura updated with developments in Saudi external affairs**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	8	6.4	6.5	6.5
	Disagree	22	17.6	17.9	24.4
	Do not know	19	15.2	15.4	39.8
	Agree	69	55.2	56.1	95.9
	Strongly agree	5	4.0	4.1	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
Total		125	100.0		

**Table: The external role of Majlis Ash-Shura is effective**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	16	12.8	12.9	12.9
	Disagree	71	56.8	57.3	70.2
	Do not know	12	9.6	9.7	79.8
	Agree	22	17.6	17.7	97.6
	Strongly agree	3	2.4	2.4	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		



**Table: The authorities vested in the Council of Ministers limits the role of the Majlis in the process of formulating both external and domestic policies**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	2	1.6	1.6	1.6
	Disagree	13	10.4	10.5	12.1
	Do not know	21	16.8	16.9	29.0
	Agree	61	48.8	49.2	78.2
	Strongly agree	27	21.6	21.8	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		

**Table: The Majlis Ash-Shura has the power to monitor the implementation of the foreign affairs of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	11	8.8	8.9	8.9
	Disagree	54	43.2	43.9	52.8
	Do not know	16	12.8	13.0	65.9
	Agree	33	26.4	26.8	92.7
	Strongly agree	9	7.2	7.3	100.0
	Total	123	98.4	100.0	
Missing		2	1.6		
Total		125	100.0		



**Table:   The Majlis Ash-Shura has the power to influence the external affairs of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	12	9.6	9.7	9.7
	Disagree	61	48.8	49.2	58.9
	Do not know	18	14.4	14.5	73.4
	Agree	27	21.6	21.8	95.2
	Strongly agree	6	4.8	4.8	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		

**Part Five: Improving the Majlis**

**Table:   Distribution of members according to their evaluation of the need of improving the functions and role of the Majlis**

		Frequency	Percent
Valid	Strongly disagree	0	00.00%
	Disagree	0	00.00%
	Do not know	8	06.40%
	Agree	80	64.00%
	Strongly agree	37	29.60%
Total		125	100.00%



**Table: The legislative function should be exclusively assigned to the Majlis, and it should be granted the power to issue final resolutions**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	20	16.0	17.4	17.4
	Do not know	3	2.4	2.6	20.0
	Agree	43	34.4	37.4	57.4
	Strongly agree	49	39.2	42.6	100.0
	Total	115	92.0	100.0	
Missing		10	8.0		
Total		125	100.0		

**Table: The Majlis Ash-Shura should be supported by a legal commission in order to enhance its legislative function**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	9	7.2	7.3	8.1
	Do not know	2	1.6	1.6	9.7
	Agree	47	37.6	37.9	47.6
	Strongly agree	65	52.0	52.4	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		



**Table : The mechanism for the selection of Majlis members should be enhanced**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	11	8.8	9.0	9.8
	Do not know	2	1.6	1.6	11.5
	Agree	66	52.8	54.1	65.6
	Strongly agree	42	33.6	34.4	100.0
	Total	122	97.6	100.0	
Missing		3	2.4		
	Total	125	100.0		

**Table : The mechanism for selecting members should be developed to combine both direct appointment and election**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	6	4.8	4.8	4.8
	Disagree	13	10.4	10.5	15.3
	Do not know	7	5.6	5.6	21.0
	Agree	56	44.8	45.2	66.1
	Strongly agree	42	33.6	33.9	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		



**Table : The mechanism for selecting members should be developed to involve full elections**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	19	15.2	16.1	16.1
	Disagree	49	39.2	41.5	57.6
	Do not know	17	13.6	14.4	72.0
	Agree	19	15.2	16.1	88.1
	Strongly agree	14	11.2	11.9	100.0
	Total	118	94.4	100.0	
Missing		7	5.6		
Total		125	100.0		

**Table : The Majlis Ash-Shura is in need of new oversight tools that are similar to those of other councils**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	.8	.8	.8
	Disagree	1	.8	.8	1.6
	Do not know	4	3.2	3.2	4.8
	Agree	41	32.8	32.8	37.6
	Strongly agree	78	62.4	62.4	100.0
Total		125	100.0	100.0	

**Table : The Majlis Ash-Shura should be granted the power to review and approve the general budget of the state**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Do not know	2	1.6	1.6	1.6
	Agree	26	20.8	20.8	22.4
	Strongly agree	97	77.6	77.6	100.0
Total		125	100.0	100.0	



**Table : The Majlis should be granted the authority to question ministers in cases of abuses and breaches in their ministries**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	50	40.0	40.0	40.0
	Strongly agree	75	60.0	60.0	100.0
Total		125	100.0	100.0	

**Table : The Majlis Ash-Shura should have the right to debate on general issues that have not been referred to it**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	2	1.6	1.6	1.6
	Do not know	1	.8	.8	2.4
	Agree	40	32.0	32.0	34.4
	Strongly agree	82	65.6	65.6	100.0
	Total	125	100.0	100.0	

**Table : The Majlis Ash-Shura should take part in the formulation of the general policy of the Kingdom**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Do not know	2	1.6	1.6	1.6
	Agree	38	30.4	30.6	32.3
	Strongly agree	84	67.2	67.7	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
	Total	125	100.0		



**Table : The government should consult and get the approval of Majlis Ash-Shura in advance of concluding external (international) agreements**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	6	4.8	4.8	4.8
	Do not know	4	3.2	3.2	8.0
	Agree	65	52.0	52.0	60.0
	Strongly agree	50	40.0	40.0	100.0
	Total	125	100.0	100.0	

**Table : The Majlis Ash-Shura should be consulted before concluding any foreign agreements, which incur financial loans**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	2	1.6	1.6	1.6
	Do not know	6	4.8	4.8	6.4
	Agree	52	41.6	41.6	48.0
	Strongly agree	65	52.0	52.0	100.0
	Total	125	100.0	100.0	

**Table : The activities and tools used by the Majlis in exercising its external role should be enhanced**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	1	.8	.8	.8
	Do not know	1	.8	.8	1.6
	Agree	73	58.4	58.9	60.5
	Strongly agree	49	39.2	39.5	100.0
	Total	124	99.2	100.0	
Missing		1	.8		
Total		125	100.0		







## **Appendix Two: Municipal Council Elections By-law**



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# Municipal Council Elections By-law

## Chapter One: Definitions

### Article One

The following words and expressions-in applying the terms and conditions of this by-law –are intended to give the meanings shown in front of each, except when the context indicates otherwise.

1. **Ministry:** the Ministry of Municipality and Rural Affairs
2. **Ministerial resolution:** a resolution issued by the Minister for Municipality and Rural Affairs.
3. **Municipality:** any secretariat-general, municipality or rural group that enjoys financial and administrative autonomy and has an independent standing.
4. **Region:** the administrative region specified according to the region's regulation and its executive by-law.
5. **Scope of the Municipal Council:** the geographical boundaries to which the municipal responsibility that reports to the Municipal Council extends.
6. **Voter (elector):** a citizen who fulfils the conditions for voting in elections as stated in Article Three of this by-law and has registered his name in the register of voters.
7. **Candidate:** a citizen who fulfils the specified regulatory stated conditions and nominates himself for Municipal Council membership and has registered his name on the candidate list.
8. **Electoral district:** a spatial scope (extent) - to be specified by a ministerial resolution –in which the election process is held.



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9. **Table of electors (voters):** a table containing the names of voters who have fulfilled the terms and conditions stated in this by-law.
  10. **List of candidates:** a list that contains the names of candidates for the Municipal Council elections in any one electoral district.
  11. **General Committee for Elections:** a committee responsible for the supervision of Municipal Council elections in the Kingdom of Saudi Arabia.
  12. **Local Supervision Committee:** a committee responsible for supervising the Municipal Council election in each region of the Kingdom of Saudi Arabia.
  13. **Voters' Registration Committee:** a committee that undertakes –in the first Municipal Council election –the responsibility of supervising the registration of the names of voters who fulfil the conditions stated in this by-law. Moreover, it will be responsible in later elections, for reviewing voters' registration tables, for adding the names of those who come for registration after fulfilling the conditions stated in this by-law and for the deletion of the deceased or those who have failed to fulfil any of the conditions stated in this by-law.
  14. **Voting and Counting Committee:** a committee responsible for the supervision of voters' registration, the execution of voting, the counting of ballots and the preparation of necessary reports of election results, in accordance with its local specialization.
  15. **Appeal and Claims Committee:** a committee responsible for looking into the appeals and claims submitted by electors and candidates, verifying them and giving judgments.
  16. **Ballot paper:** the paper on which the elector states the names of those whom he chooses from among the candidates, according to a specified number assigned to each electoral district.



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17. **Voting:** the act of the electors in casting their votes to select the candidates for Municipal Council membership within the specified time.

18. **Date of voting:** the specified date to perform the voting process.

## **Chapter Two: General Terms and Conditions**

### **Article Two**

The voting date is specified by a ministerial resolution issued at least 90 days from the specified date, and published in the official newspaper, and not less than 4 other daily newspapers, and in the head offices of the electoral districts.

### **Article Three**

Every citizen enjoys the right to vote if the following conditions are met:

1. He shall not be less than 21 Hegira years old at the time of voting.
2. He shall not be a member of the military personnel in active service.
3. He shall have been resident in the area of the Municipal Council in which he is voting during the 12 months before the election date. If he has a residence in more than one Municipal Council area, he shall choose to vote in only one of them.

## **Chapter Three: Electoral Districts and Committees**

### **Article Four**

Electoral districts are established- in the first Municipal Council elections –once the registration of electors is completed; their establishment in subsequent elections must be at least 60 days from the date of election. Their establishment shall be according to a ministerial resolution, which specifies the scope of each district and the number of members to be elected. The resolution shall be published in the official newspaper and in not less than 4 other daily newspapers.



## **Article Five**

A general committee (the General Committee for the Election) shall be formed in each Municipal Council election period, according to a ministerial resolution. It will be responsible for following up the actions of the election committees. The resolution shall specify the responsibilities and authorities of the committee.

## **Article Six**

At least one committee (the Local Supervision Committee) shall be formed by a ministerial resolution in each area related to the Committee mentioned in the previous Article. It shall be responsible for supervising the Municipal Council election according to its local specialization. The resolution shall specify its duties and authorities.

## **Article Seven**

At least one committee (the Electors' Registration Committees) shall be formed by a ministerial resolution in each municipality. It shall be responsible for monitoring the registration of electors who fulfil the conditions stipulated in this by-law, according to its spatial specialization. The number of members in each committee shall not be less than 4 including the Chairman.

## **Article Eight**

At least one committee (the Voting and Counting Committee) shall be formed by a ministerial resolution in each municipality. It shall monitor candidates' registration, perform polling and count ballots according to its local specialization. The number of members of each committee shall not be less than 5 with a Sharia expert or formal consultant as their Chairman. The Chairman of the Committee shall nominate its Secretary. The Committee Secretary shall be responsible for recording its resolutions and agendas, which will be signed by the Chairman and the members of the Committee.



## **Chapter Four: Electors' Registration**

### **Article Nine**

The committees mentioned in Article Seven in the later elections for the first Municipal Council elections shall review the electors' registration lists, adding the names of those who fulfil the conditions stated in this by-law deleting the names of the deceased or those who fail to fulfil any of the stated conditions.

### **Article Ten**

The Electors' Registration Committee shall, for the first Municipal Council election, prepare a report (agenda) on the completion of the registration of electors regarding the procedures used, or review the registration lists in subsequent elections, and the Chairman and Committee members shall sign the report. The report shall be accompanied by the registration lists of the electors. The report (agenda) and lists shall be submitted to the Ministry, one copy shall remain with the Committee and another shall be sent to the Ministry of the Interior. The electors' registration lists shall be published at the headquarters of the electoral districts at least 30 days before the voting date.

### **Article Eleven**

It is not permitted to repeat the registration of an elector; whoever has his name registered has the right to participate in the election.

## **Chapter Five: Candidate Registration**

### **Article Twelve**

Any one who has his name registered as a candidate and fulfils the stated membership conditions, can run for office in the Municipal Council elections within 5 days from the date of publication of the candidate registration lists. He shall submit his nomination in



writing to the Committee of Voting and Counting as per the form prepared by the Ministry for this purpose. The nominations shall be registered according to the dates they arrive at a special register. A list shall be prepared of the candidates in each electoral district (constituency) and published at the electoral headquarters of each district at least 25 days before the voting date. It is not permitted for a candidate to nominate himself in more than one electoral district.

### **Article Thirteen**

Every candidate can select one elector to be his representative at the Committee of Voting and Counting. The candidate shall submit in writing the name of his representative, at least 3 days before the voting date.

### **Article Fourteen**

A candidate has the right to abandon nomination and he shall submit his abandonment in writing to the Committee of Voting and Counting within 5 days of the date of the candidate lists being published.

## **Chapter Six: Voting and Counting**

### **Article Fifteen**

1. Electors select their candidates for the Municipal Council at the date of voting.
2. Voting is through secret ballot, and electors can only select the number of candidates as specified in each electoral district.

### **Article Sixteen**

Every elector shall be given a ballot paper after having his identity checked. The elector shall proceed to the place specified for casting the ballot inside the ballot hall, specify his choice of candidate and put the paper in the ballot box. The elector who cannot specify his choice on paper can do so verbally to the members of the Committee who will put his choice on paper and put it in the ballot box.



### **Article Seventeen**

Every elector shall perform his electoral right by himself. If an elector cannot come to the headquarters of the electoral district because he is physically handicapped, he can authorize another to vote for him by producing an official certificate proving his handicap according to a special authority approved by the Committee of Voting and Counting. No one has the right to be authorized for more than one elector.

### **Article Eighteen**

The Chairman of the Voting and Counting Committee –before the beginning of ballot casting –shall open the ballot boxes and show them to those present at the headquarters of voting – as being empty. Then he shall close and seal them in front of those present and he and the members of the Committee shall sign the seal.

### **Article Nineteen**

Considering what is stated in Article Twenty of this by-law, the voting process lasts from 8 o'clock in the morning until 5 o'clock in the evening. If there are electors at the headquarters of voting who have not cast their votes, the process will continue until their votes are cast. If all registered electors have cast their votes before the end of the specified voting time, the Chairman shall announce the end of the voting process immediately after the last elector has cast his vote. In all cases, the actual time of the beginning and end of the voting process must be verified according to a report signed by the Chairman and the members of the Voting and Counting Committee.

### **Article Twenty**

The voting process shall be stopped –within the scope of the Municipal Council – and the candidates considered as unopposed winners in the following two cases:



1. If the number of elected candidates doesn't reach the specified number necessary for the establishment of a Municipal Council. In this case –candidates will be appointed by a ministerial resolution – to complete the required number.
2. If the number of candidates is equal to the specified number of members necessary to establish a Municipal Council.

In both cases a report shall be prepared and signed by the Chairman and the members of the Voting and Counting Committee.

### **Article Twenty-One**

All ballot papers containing votes suspended because of certain conditions, or those in which the elector selects a number of council members that exceeds the specified number to be elected in an electoral district or those containing any mark that indicates the voter's personality or implies his identity are considered invalid (null) or void. Moreover, any ballots presented on papers other than those specified for voting, are also considered void.

### **Article Twenty-Two**

1. The Voting and Counting Committee counts the ballots and the candidates or their representatives have the right to attend the counting process.
2. The Voting and Counting Committee prepares a report containing the candidates' names, the number of votes allocated to each, and who won the most votes granting them membership of the Council. The Chairman and the Committee members shall sign the report, which is then sent together with all the ballot papers to the Ministry to complete the formal procedure of the election.
3. If more than one candidate receives an equal number of votes, the required number shall be selected by the Chairman of the Committee by drawing lots in their presence or the presence of their representatives not more than 3 days from



the date the counting is completed. Those whose lot is drawn shall win membership of the Council.

### **Article Twenty-Three**

The names of the winners shall be published in the official newspaper, in not less than 4 pages, and also published at the headquarters of the electoral district after the election results are made public.

## **Chapter Seven: Electoral Appeals and Claims**

### **Article Twenty-Four**

At least one committee (the Electoral Appeals and Claims Committee) –in each area of the Kingdom – shall be formed consisting of 3 members headed by a Sharia expert or legal consultant. The naming of the committee members shall be done by a ministerial resolution at least 30 days from the voting date.

### **Article Twenty-Five**

The committee mentioned in the previous Article is also concerned with appeals and claims raised by electors and candidates and shall verify them and give its judgment after hearing the parties. The resolution of the Committee shall be issued on the principle of the majority and it shall be reasonable (causative) and final. The Committee shall consider all appeals and claims within 5 days from the date they are submitted. The Committee may exclude any elector or candidate, may nullify the election of any candidate and may repeat the voting process in the electoral district if necessary.

### **Article Twenty-Six**

An elector or candidate in any electoral district may claim –in front of the Electoral Appeals and Claims Committee - against any resolutions of the Electors' Registering



Committee or the Committee of Voting and Counting issued against him, within 3 days of the resolution being issued. He may protest and appeal against the listing of any elector's or candidate's names in his electoral district if the stated conditions have not been fulfilled or the stipulations of this by-law have not been abided by. He shall submit his appeal within 3 days of the announcement of the schedule or list. He shall submit the appeal or claim in writing to the Chairman of the Electoral Voting and Counting Committee, including the reasons for his appeal or claim.

#### **Article Twenty- Seven**

Any elector or candidate has the right to request-within 5 days of the names of the winning candidates in his electoral district being published – the nullification of the election of any one of them and submit the request –in writing- to the Chairman of the Electoral Appeal and Claims Committee including the reasons (from a legal aspect) on which his appeal or claim is based.

### **Chapter Eight: Closing Terms and Conditions**

#### **Article Twenty- Eight**

The Ministry prepares unified formats for the registration of electors and candidates, for the ballot papers for appeals and claims submittals and for nomination (candidature) relinquishment. These formats contain the information required to achieve each purpose.

#### **Article Twenty- Nine**

Violation of the general order and traditions of society is strictly forbidden as are the arousal of disorder, riots or sectarian, tribal or regional disputes, or misconduct toward any elector or candidate directly or indirectly. It is also forbidden to use mosques or public facilities and the like for electoral propaganda. The regulations related to electoral propaganda will be issued by a ministerial resolution.



### **Article Thirty**

Order and security control at the electors' and candidates' registration headquarters is the responsibility of the Chairman of each committee who has the right to seek help and assistance from the police force.

### **Article Thirty-One**

As regards the regulatory specialization, coordination between the Ministry and the Ministry of the Interior takes place at all stages of the election process, including the stopping of election procedures when necessary.

### **Article Thirty-Two**

This by-law shall be published in the formal newspaper and shall be executed from the date of its publication.

